

SB 6097 - S AMD 471

By Senator Honeyford

ADOPTED AS AMENDED 06/10/2003

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 50.01.010 and 1945 c 35 s 2 are each amended to read  
4 as follows:

5 Whereas, economic insecurity due to unemployment is a serious  
6 menace to the health, morals and welfare of the people of this state;  
7 involuntary unemployment is, therefore, a subject of general interest  
8 and concern which requires appropriate action by the legislature to  
9 prevent its spread and to lighten its burden which now so often falls  
10 with crushing force upon the unemployed worker and his family. Social  
11 security requires protection against this greatest hazard of our  
12 economic life. This can be provided only by application of the  
13 insurance principle of sharing the risks, and by the systematic  
14 accumulation of funds during periods of employment to provide benefits  
15 for periods of unemployment, thus maintaining purchasing powers and  
16 limiting the serious social consequences of relief assistance. The  
17 state of Washington, therefore, exercising herein its police and  
18 sovereign power endeavors by this title to remedy any widespread  
19 unemployment situation which may occur and to set up safeguards to  
20 prevent its recurrence in the years to come. The legislature,  
21 therefore, declares that in its considered judgment the public good,  
22 and the general welfare of the citizens of this state require the  
23 enactment of this measure, under the police powers of the state, for  
24 the compulsory setting aside of unemployment reserves to be used for  
25 the benefit of persons unemployed through no fault of their own(~~, and~~  
26 ~~that this title shall be liberally construed for the purpose of~~  
27 ~~reducing involuntary unemployment and the suffering caused thereby to~~  
28 ~~the minimum~~)).

29 PART I - UNEMPLOYMENT ELIGIBILITY AND COMPENSATION

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 50.04 RCW  
2 to read as follows:

3        After December 31, 2003, for the purpose of the payment of  
4 contributions, the term "wages" does not include an employee's income  
5 attributable to the transfer of shares of stock to the employee  
6 pursuant to his or her exercise of a stock option granted for any  
7 reason connected with his or her employment.

8        **Sec. 3.**    RCW 50.20.010 and 1995 c 381 s 1 are each amended to read  
9 as follows:

10        (1) An unemployed individual shall be eligible to receive waiting  
11 period credits or benefits with respect to any week in his or her  
12 eligibility period only if the commissioner finds that:

13        ~~((1))~~    (a) He or she has registered for work at, and thereafter  
14 has continued to report at, an employment office in accordance with  
15 such regulation as the commissioner may prescribe, except that the  
16 commissioner may by regulation waive or alter either or both of the  
17 requirements of this subdivision as to individuals attached to regular  
18 jobs and as to such other types of cases or situations with respect to  
19 which the commissioner finds that the compliance with such requirements  
20 would be oppressive, or would be inconsistent with the purposes of this  
21 title;

22        ~~((2))~~    (b) He or she has filed an application for an initial  
23 determination and made a claim for waiting period credit or for  
24 benefits in accordance with the provisions of this title;

25        ~~((3))~~    (c) He or she is able to work, and is available for work in  
26 any trade, occupation, profession, or business for which he or she is  
27 reasonably fitted.

28        (i) With respect to claims that have an effective date before  
29 January 4, 2004, to be available for work an individual must be ready,  
30 able, and willing, immediately to accept any suitable work which may be  
31 offered to him or her and must be actively seeking work pursuant to  
32 customary trade practices and through other methods when so directed by  
33 the commissioner or the commissioner's agents.

34        (ii) With respect to claims that have an effective date on or after  
35 January 4, 2004, to be available for work an individual must be ready,  
36 able, and willing, immediately to accept any suitable work which may be

1 offered to him or her and must be actively seeking work pursuant to  
2 customary trade practices and through other methods when so directed by  
3 the commissioner or the commissioner's agents. If a labor agreement or  
4 dispatch rules apply, customary trade practices must be in accordance  
5 with the applicable agreement or rules;

6 ((+4)) (d) He or she has been unemployed for a waiting period of  
7 one week;

8 ((+5)) (e) He or she participates in reemployment services if the  
9 individual has been referred to reemployment services pursuant to the  
10 profiling system established by the commissioner under RCW 50.20.011,  
11 unless the commissioner determines that:

12 ((+a)) (i) The individual has completed such services; or

13 ((+b)) (ii) There is justifiable cause for the claimant's failure  
14 to participate in such services; and

15 ((+6)) (f) As to weeks beginning after March 31, 1981, which fall  
16 within an extended benefit period as defined in RCW 50.22.010, the  
17 individual meets the terms and conditions of RCW 50.22.020 with respect  
18 to benefits claimed in excess of twenty-six times the individual's  
19 weekly benefit amount.

20 (2) An individual's eligibility period for regular benefits shall  
21 be coincident to his or her established benefit year. An individual's  
22 eligibility period for additional or extended benefits shall be the  
23 periods prescribed elsewhere in this title for such benefits.

24 **Sec. 4.** RCW 50.20.050 and 2002 c 8 s 1 are each amended to read as  
25 follows:

26 (1) With respect to claims that have an effective date before  
27 January 4, 2004:

28 (a) An individual shall be disqualified from benefits beginning  
29 with the first day of the calendar week in which he or she has left  
30 work voluntarily without good cause and thereafter for seven calendar  
31 weeks and until he or she has obtained bona fide work in employment  
32 covered by this title and earned wages in that employment equal to  
33 seven times his or her weekly benefit amount.

34 The disqualification shall continue if the work obtained is a mere  
35 sham to qualify for benefits and is not bona fide work. In determining

1 whether work is of a bona fide nature, the commissioner shall consider  
2 factors including but not limited to the following:

3 ~~((a))~~ (i) The duration of the work;

4 ~~((b))~~ (ii) The extent of direction and control by the employer  
5 over the work; and

6 ~~((c))~~ (iii) The level of skill required for the work in light of  
7 the individual's training and experience.

8 ~~((2))~~ (b) An individual shall not be considered to have left work  
9 voluntarily without good cause when:

10 ~~((a))~~ (i) He or she has left work to accept a bona fide offer of  
11 bona fide work as described in ~~((subsection(1))~~ (a) of this  
12 ~~((section))~~ subsection;

13 ~~((b))~~ (ii) The separation was because of the illness or  
14 disability of the claimant or the death, illness, or disability of a  
15 member of the claimant's immediate family if the claimant took all  
16 reasonable precautions, in accordance with any regulations that the  
17 commissioner may prescribe, to protect his or her employment status by  
18 having promptly notified the employer of the reason for the absence and  
19 by having promptly requested reemployment when again able to assume  
20 employment: PROVIDED, That these precautions need not have been taken  
21 when they would have been a futile act, including those instances when  
22 the futility of the act was a result of a recognized labor/management  
23 dispatch system;

24 ~~((c))~~ (iii) He or she has left work to relocate for the spouse's  
25 employment that is due to an employer-initiated mandatory transfer that  
26 is outside the existing labor market area if the claimant remained  
27 employed as long as was reasonable prior to the move; or

28 ~~((d))~~ (iv) The separation was necessary to protect the claimant  
29 or the claimant's immediate family members from domestic violence, as  
30 defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.

31 ~~((3))~~ (c) In determining under this ~~((section))~~ subsection  
32 whether an individual has left work voluntarily without good cause, the  
33 commissioner shall only consider work-connected factors such as the  
34 degree of risk involved to the individual's health, safety, and morals,  
35 the individual's physical fitness for the work, the individual's  
36 ability to perform the work, and such other work connected factors as  
37 the commissioner may deem pertinent, including state and national

1 emergencies. Good cause shall not be established for voluntarily  
2 leaving work because of its distance from an individual's residence  
3 where the distance was known to the individual at the time he or she  
4 accepted the employment and where, in the judgment of the department,  
5 the distance is customarily traveled by workers in the individual's job  
6 classification and labor market, nor because of any other significant  
7 work factor which was generally known and present at the time he or she  
8 accepted employment, unless the related circumstances have so changed  
9 as to amount to a substantial involuntary deterioration of the work  
10 factor or unless the commissioner determines that other related  
11 circumstances would work an unreasonable hardship on the individual  
12 were he or she required to continue in the employment.

13 ~~((4))~~ (d) Subsection~~((s))~~ (1)(a) and ~~((3))~~ (c) of this section  
14 shall not apply to an individual whose marital status or domestic  
15 responsibilities cause him or her to leave employment. Such an  
16 individual shall not be eligible for unemployment insurance benefits  
17 beginning with the first day of the calendar week in which he or she  
18 left work and thereafter for seven calendar weeks and until he or she  
19 has requalified, either by obtaining bona fide work in employment  
20 covered by this title and earning wages in that employment equal to  
21 seven times his or her weekly benefit amount or by reporting in person  
22 to the department during ten different calendar weeks and certifying on  
23 each occasion that he or she is ready, able, and willing to immediately  
24 accept any suitable work which may be offered, is actively seeking work  
25 pursuant to customary trade practices, and is utilizing such employment  
26 counseling and placement services as are available through the  
27 department. This subsection does not apply to individuals covered by  
28 ~~((subsection (2)(b) or (c) of this section))~~ (b)(ii) or (iii) of this  
29 subsection.

30 (2) With respect to claims that have an effective date on or after  
31 January 4, 2004:

32 (a) An individual shall be disqualified from benefits beginning  
33 with the first day of the calendar week in which he or she has left  
34 work voluntarily without good cause and thereafter for seven calendar  
35 weeks and until he or she has obtained bona fide work in employment  
36 covered by this title and earned wages in that employment equal to  
37 seven times his or her weekly benefit amount.

1       The disqualification shall continue if the work obtained is a mere  
2 sham to qualify for benefits and is not bona fide work. In determining  
3 whether work is of a bona fide nature, the commissioner shall consider  
4 factors including but not limited to the following:

5       (i) The duration of the work;

6       (ii) The extent of direction and control by the employer over the  
7 work; and

8       (iii) The level of skill required for the work in light of the  
9 individual's training and experience.

10       (b) An individual is not disqualified from benefits under (a) of  
11 this subsection when:

12       (i) He or she has left work to accept a bona fide offer of bona  
13 fide work as described in (a) of this subsection;

14       (ii) The separation was necessary because of the illness or  
15 disability of the claimant or the death, illness, or disability of a  
16 member of the claimant's immediate family if:

17       (A) The claimant pursued all reasonable alternatives to preserve  
18 his or her employment status by requesting a leave of absence, by  
19 having promptly notified the employer of the reason for the absence,  
20 and by having promptly requested reemployment when again able to assume  
21 employment. These alternatives need not be pursued, however, when they  
22 would have been a futile act, including those instances when the  
23 futility of the act was a result of a recognized labor/management  
24 dispatch system; and

25       (B) The claimant terminated his or her employment status, and is  
26 not entitled to be reinstated to the same position or a comparable or  
27 similar position;

28       (iii) He or she: (A) Left work to relocate for the spouse's  
29 employment that, due to a mandatory military transfer: (I) Is outside  
30 the existing labor market area; and (II) is in Washington or another  
31 state that, pursuant to statute, does not consider such an individual  
32 to have left work voluntarily without good cause; and (B) remained  
33 employed as long as was reasonable prior to the move;

34       (iv) The separation was necessary to protect the claimant or the  
35 claimant's immediate family members from domestic violence, as defined  
36 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

1       (v) The individual's usual compensation was reduced by twenty-five  
2 percent or more;

3       (vi) The individual's usual hours were reduced by twenty-five  
4 percent or more;

5       (vii) The individual's worksite changed, such change caused a  
6 material increase in distance or difficulty of travel, and, after the  
7 change, the commute was greater than is customary for workers in the  
8 individual's job classification and labor market;

9       (viii) The individual's worksite safety deteriorated, the  
10 individual reported such safety deterioration to the employer, and the  
11 employer failed to correct the hazards within a reasonable period of  
12 time;

13       (ix) The individual left work because of illegal activities in the  
14 individual's worksite, the individual reported such activities to the  
15 employer, and the employer failed to end such activities within a  
16 reasonable period of time; or

17       (x) The individual's usual work was changed to work that violates  
18 the individual's religious convictions or sincere moral beliefs.

19       **Sec. 5.** RCW 50.04.293 and 1993 c 483 s 1 are each amended to read  
20 as follows:

21       With respect to claims that have an effective date before January  
22 4, 2004, "misconduct" means an employee's act or failure to act in  
23 willful disregard of his or her employer's interest where the effect of  
24 the employee's act or failure to act is to harm the employer's  
25 business.

26       NEW SECTION. Sec. 6. A new section is added to chapter 50.04 RCW  
27 to read as follows:

28       With respect to claims that have an effective date on or after  
29 January 4, 2004:

30       (1) "Misconduct" includes, but is not limited to, the following  
31 conduct by a claimant:

32       (a) Willful or wanton disregard of the rights, title, and interests  
33 of the employer or a fellow employee;

34       (b) Deliberate violations or disregard of standards of behavior  
35 which the employer has the right to expect of an employee;

1 (c) Carelessness or negligence that causes or would likely cause  
2 serious bodily harm to the employer or a fellow employee; or

3 (d) Carelessness or negligence of such degree or recurrence to show  
4 an intentional or substantial disregard of the employer's interest.

5 (2) The following acts are considered misconduct because the acts  
6 signify a willful or wanton disregard of the rights, title, and  
7 interests of the employer or a fellow employee. These acts include,  
8 but are not limited to:

9 (a) Insubordination showing a deliberate, willful, or purposeful  
10 refusal to follow the reasonable directions or instructions of the  
11 employer;

12 (b) Repeated inexcusable tardiness following warnings by the  
13 employer;

14 (c) Dishonesty related to employment, including but not limited to  
15 deliberate falsification of company records, theft, deliberate  
16 deception, or lying;

17 (d) Repeated and inexcusable absences, including absences for which  
18 the employee was able to give advance notice and failed to do so;

19 (e) Deliberate acts that are illegal, provoke violence or violation  
20 of laws, or violate the collective bargaining agreement. However, an  
21 employee who engages in lawful union activity may not be disqualified  
22 due to misconduct;

23 (f) Violation of a company rule if the rule is reasonable and if  
24 the claimant knew or should have known of the existence of the rule; or

25 (g) Violations of law by the claimant while acting within the scope  
26 of employment that substantially affect the claimant's job performance  
27 or that substantially harm the employer's ability to do business.

28 (3) "Misconduct" does not include:

29 (a) Inefficiency, unsatisfactory conduct, or failure to perform  
30 well as the result of inability or incapacity;

31 (b) Inadvertence or ordinary negligence in isolated instances; or

32 (c) Good faith errors in judgment or discretion.

33 (4) "Gross misconduct" means a criminal act in connection with an  
34 individual's work for which the individual has been convicted in a  
35 criminal court, or has admitted committing, or conduct connected with  
36 the individual's work that demonstrates a flagrant and wanton disregard

1 of and for the rights, title, or interest of the employer or a fellow  
2 employee.

3 **Sec. 7.** RCW 50.20.060 and 2000 c 2 s 13 are each amended to read  
4 as follows:

5 With respect to claims that have an effective date before January  
6 4, 2004, an individual shall be disqualified from benefits beginning  
7 with the first day of the calendar week in which he or she has been  
8 discharged or suspended for misconduct connected with his or her work  
9 and thereafter for seven calendar weeks and until he or she has  
10 obtained bona fide work in employment covered by this title and earned  
11 wages in that employment equal to seven times his or her weekly benefit  
12 amount. Alcoholism shall not constitute a defense to disqualification  
13 from benefits due to misconduct.

14 **Sec. 8.** RCW 50.20.065 and 1993 c 483 s 11 are each amended to read  
15 as follows:

16 With respect to claims that have an effective date before January  
17 4, 2004:

18 (1) An individual who has been discharged from his or her work  
19 because of a felony or gross misdemeanor of which he or she has been  
20 convicted, or has admitted committing to a competent authority, and  
21 that is connected with his or her work shall have all hourly wage  
22 credits based on that employment canceled.

23 (2) The employer shall notify the department of such an admission  
24 or conviction, not later than six months following the admission or  
25 conviction.

26 (3) The claimant shall disclose any conviction of the claimant of  
27 a work-connected felony or gross misdemeanor occurring in the previous  
28 two years to the department at the time of application for benefits.

29 (4) All benefits that are paid in error based on wage/hour credits  
30 that should have been removed from the claimant's base year are  
31 recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other  
32 provisions of this title.

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 50.20 RCW  
34 to read as follows:

1 With respect to claims that have an effective date on or after  
2 January 4, 2004:

3 (1) An individual shall be disqualified from benefits beginning  
4 with the first day of the calendar week in which he or she has been  
5 discharged or suspended for misconduct connected with his or her work  
6 and thereafter for ten calendar weeks and until he or she has obtained  
7 bona fide work in employment covered by this title and earned wages in  
8 that employment equal to ten times his or her weekly benefit amount.  
9 Alcoholism shall not constitute a defense to disqualification from  
10 benefits due to misconduct.

11 (2) An individual who has been discharged from his or her work  
12 because of gross misconduct shall have all hourly wage credits based on  
13 that employment or six hundred eighty hours of wage credits, whichever  
14 is greater, canceled.

15 (3) The employer shall notify the department of a felony or gross  
16 misdemeanor of which an individual has been convicted, or has admitted  
17 committing to a competent authority, not later than six months  
18 following the admission or conviction.

19 (4) The claimant shall disclose any conviction of the claimant of  
20 a work-connected felony or gross misdemeanor occurring in the previous  
21 two years to the department at the time of application for benefits.

22 (5) All benefits that are paid in error based on this section are  
23 recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other  
24 provisions of this title.

25 **Sec. 10.** RCW 50.20.240 and 2002 c 8 s 3 are each amended to read  
26 as follows:

27 (1)(a) To ensure that following the initial application for  
28 benefits, an individual is actively engaged in searching for work,  
29 ~~((effective July 1, 1999,))~~ the employment security department shall  
30 implement a job search monitoring program. Effective January 4, 2004,  
31 the department shall contract with employment security agencies in  
32 other states to ensure that individuals residing in those states and  
33 receiving benefits under this title are actively engaged in searching  
34 for work in accordance with the requirements of this section. The  
35 department may use interactive voice technology and other electronic

1 means to ensure that individuals are subject to comparable job search  
2 monitoring, regardless of whether they reside in Washington or  
3 elsewhere.

4 (b) Except for those individuals with employer attachment or union  
5 referral, individuals who qualify for unemployment compensation under  
6 RCW 50.20.050(~~((2)(d))~~) (1)(b)(iii) or (2)(b)(v), as applicable, and  
7 individuals in commissioner-approved training, an individual who has  
8 received five or more weeks of benefits under this title, regardless of  
9 whether the individual resides in Washington or elsewhere, must provide  
10 evidence of seeking work, as directed by the commissioner or the  
11 commissioner's agents, for each week beyond five in which a claim is  
12 filed. With regard to claims with an effective date before January 4,  
13 2004, the evidence must demonstrate contacts with at least three  
14 employers per week or documented in-person job search activity at the  
15 local reemployment center. With regard to claims with an effective  
16 date on or after January 4, 2004, the evidence must demonstrate  
17 contacts with at least three employers per week or documented in-person  
18 job search activities at the local reemployment center at least three  
19 times per week.

20 (c) In developing the requirements for the job search monitoring  
21 program, the commissioner or the commissioner's agents shall utilize an  
22 existing advisory committee having equal representation of employers  
23 and workers.

24 (2) Effective January 4, 2004, an individual who fails to comply  
25 fully with the requirements for actively seeking work under RCW  
26 50.20.010 shall lose all benefits for all weeks during which the  
27 individual was not in compliance, and the individual shall be liable  
28 for repayment of all such benefits under RCW 50.20.190.

29 **Sec. 11.** RCW 50.20.120 and 2002 c 149 s 4 are each amended to read  
30 as follows:

31 (1)(a) Subject to the other provisions of this title, benefits  
32 shall be payable to any eligible individual during the individual's  
33 benefit year in a maximum amount equal to the lesser of thirty times  
34 the weekly benefit amount (~~((determined hereinafter))~~), as determined  
35 in subsection (2) of this section, or one-third of the individual's  
36 base year wages under this title: PROVIDED, That as to any week

1 (~~beginning on and after March 31, 1981,~~) which falls in an extended  
2 benefit period as defined in RCW 50.22.010(1), (~~as now or hereafter~~  
3 ~~amended,~~) an individual's eligibility for maximum benefits in excess  
4 of twenty-six times his or her weekly benefit amount will be subject to  
5 the terms and conditions set forth in RCW 50.22.020(~~, as now or~~  
6 ~~hereafter amended~~)).

7 (b) With respect to claims that have an effective date on or after  
8 the first Sunday of the calendar month immediately following the month  
9 in which the commissioner finds that the state unemployment rate is six  
10 and eight-tenths percent or less, benefits shall be payable to any  
11 eligible individual during the individual's benefit year in a maximum  
12 amount equal to the lesser of twenty-six times the weekly benefit  
13 amount, as determined in subsection (2) of this section, or one-third  
14 of the individual's base year wages under this title.

15 (2)(a) For claims with an effective date before January 4, 2004, an  
16 individual's weekly benefit amount shall be an amount equal to one  
17 twenty-fifth of the average quarterly wages of the individual's total  
18 wages during the two quarters of the individual's base year in which  
19 such total wages were highest.

20 (b) With respect to claims with an effective date on or after  
21 January 4, 2004, and before January 2, 2005, an individual's weekly  
22 benefit amount shall be an amount equal to one twenty-fifth of the  
23 average quarterly wages of the individual's total wages during the  
24 three quarters of the individual's base year in which such total wages  
25 were highest.

26 (c) With respect to claims with an effective date on or after  
27 January 2, 2005, an individual's weekly benefit amount shall be an  
28 amount equal to one percent of the total wages paid in the individual's  
29 base year.

30 (3) The maximum and minimum amounts payable weekly shall be  
31 determined as of each June 30th to apply to benefit years beginning in  
32 the twelve-month period immediately following such June 30th. (~~Except~~  
33 as provided in RCW 50.20.125,)

34 (a)(i) With respect to claims that have an effective date before  
35 January 4, 2004, the maximum amount payable weekly shall be seventy  
36 percent of the "average weekly wage" for the calendar year preceding  
37 such June 30th.

1        (ii) With respect to claims that have an effective date on or after  
2 January 4, 2004, the maximum amount payable weekly shall be either four  
3 hundred ninety-six dollars or sixty-three percent of the "average  
4 weekly wage" for the calendar year preceding such June 30th, whichever  
5 is greater.

6        (b) The minimum amount payable weekly shall be fifteen percent of  
7 the "average weekly wage" for the calendar year preceding such June  
8 30th.

9        (4) If any weekly benefit, maximum benefit, or minimum benefit  
10 amount computed herein is not a multiple of one dollar, it shall be  
11 reduced to the next lower multiple of one dollar.

12        NEW SECTION. Sec. 12. A new section is added to chapter 50.20 RCW  
13 to read as follows:

14        (1) It is the intent of the legislature to establish eligibility  
15 requirements for workers who are part-time or seasonal workers.

16        (2) With respect to claims that have an effective date on or after  
17 January 2, 2005:

18        (a) An otherwise eligible individual may not be denied benefits for  
19 any week because the individual is a part-time worker and is available  
20 for, seeks, applies for, or accepts only work of twenty or fewer hours  
21 per week by reason of the application of RCW 50.20.010(1)(c),  
22 50.20.080, or 50.22.020(1) relating to availability for work and active  
23 search for work, or failure to apply for or refusal to accept suitable  
24 work.

25        (b) If a claimant is a seasonal worker:

26        (i) Who earned wages in "employment" in fewer than one thousand  
27 four hundred forty hours in his or her base year, benefits are payable  
28 to the claimant during a calendar week of the claimant's benefit year  
29 only if the week corresponds to a calendar week within a seasonal work  
30 period of a base year employer who had been designated as a seasonal  
31 employer by the commissioner under this section.

32        (ii) Who earned wages in "employment" in one thousand four hundred  
33 forty hours or more in his or her base year, benefits are payable to  
34 the claimant during any calendar week of the claimant's benefit year as  
35 otherwise provided in this title.

1 (c)(i) Between January 1st and April 1st of any year, an employer  
2 may apply to the commissioner in writing for designation as a seasonal  
3 employer, effective on the date determined by the commissioner. By  
4 June 30th, the commissioner shall determine if the employer is a  
5 seasonal employer and, if the employer is designated a seasonal  
6 employer, identify one or more seasonal work periods of the employer.  
7 The commissioner's determination regarding an employer's status as a  
8 seasonal employer, or a decision of an administrative law judge or of  
9 the court regarding the employer's status as a seasonal employer, which  
10 has become final and is not subject to further appeal, together with  
11 the record thereof, may be introduced in any proceeding involving a  
12 claim for benefits, and the facts found and decision issued in the  
13 determination or decision shall be conclusive unless the claimant  
14 introduces substantial evidence to the contrary.

15 (ii) A determination of seasonal employer status shall remain in  
16 effect until the commissioner, on the commissioner's own motion for  
17 good cause or upon the written request of the employer, issues a  
18 determination terminating an employer's status as a seasonal employer.  
19 A termination determination under this subsection becomes effective as  
20 specified by the commissioner.

21 (d) At the time an employee is hired by a seasonal employer, the  
22 employer must notify the employee in writing that the employee may be  
23 a seasonal worker.

24 (3) For purposes of this section:

25 (a) "Part-time worker" means an individual that: (i) Earned wages  
26 in "employment" in at least forty weeks in the individual's base year;  
27 and (ii) did not earn wages in "employment" in more than twenty hours  
28 per week in more than three weeks in the individual's base year.

29 (b) "Seasonal employer" means an employer who:

30 (i) With respect to a period identified by the employer of twelve  
31 consecutive calendar months preceding the employer's application, has  
32 reduced his or her work force by at least sixty percent from the  
33 highest level of employment in a seasonal work period to the lowest  
34 level of employment at any point in the twelve calendar month period;  
35 and

36 (ii) Operates in an industry or with a process which, because of  
37 conditions related to climate, agriculture, food fish, shellfish, or

1 natural resources, makes it impractical or impossible for the employer  
2 to operate without the reduction in employment specified in (b)(i) of  
3 this subsection.

4 (c) "Seasonal worker" means a worker who earned at least seventy-  
5 five percent of his or her base year wages in employment with one or  
6 more seasonal employers during one or more seasonal work periods.

7 (d) "Seasonal work period" means a regularly recurring period in  
8 any twelve consecutive calendar months that is determined by the  
9 commissioner to be a period during which the seasonal employer  
10 customarily operates and because of which the employer meets the  
11 definition of "seasonal employer."

12 **Sec. 13.** RCW 50.20.100 and 2002 c 8 s 2 are each amended to read  
13 as follows:

14 (1) Suitable work for an individual is employment in an occupation  
15 in keeping with the individual's prior work experience, education, or  
16 training and if the individual has no prior work experience, special  
17 education, or training for employment available in the general area,  
18 then employment which the individual would have the physical and mental  
19 ability to perform. In determining whether work is suitable for an  
20 individual, the commissioner shall also consider the degree of risk  
21 involved to the individual's health, safety, and morals, the  
22 individual's physical fitness, the individual's length of unemployment  
23 and prospects for securing local work in the individual's customary  
24 occupation, the distance of the available work from the individual's  
25 residence, and such other factors as the commissioner may deem  
26 pertinent, including state and national emergencies.

27 (2) For individuals with base year work experience in agricultural  
28 labor, any agricultural labor available from any employer shall be  
29 deemed suitable unless it meets conditions in RCW 50.20.110 or the  
30 commissioner finds elements of specific work opportunity unsuitable for  
31 a particular individual.

32 (3) With respect to claims that have an effective date on or after  
33 January 4, 2004, for seasonal workers, any work available from any  
34 seasonal employer shall be deemed suitable unless it meets conditions  
35 in RCW 50.20.110 or the commissioner finds elements of specific work  
36 opportunity unsuitable for a particular individual.

1       (4) For part-time workers as defined in section 12 of this act,  
2 suitable work includes suitable work under subsection (1) of this  
3 section that is for twenty or fewer hours per week.

4       (5) For individuals who have qualified for unemployment  
5 compensation benefits under RCW 50.20.050(~~(+2)(d)~~) (1)(b)(iii) or  
6 (2)(b)(v), as applicable, an evaluation of the suitability of the work  
7 must consider the individual's need to address the physical,  
8 psychological, legal, and other effects of domestic violence or  
9 stalking.

10       NEW SECTION. Sec. 14. A new section is added to chapter 50.20 RCW  
11 to read as follows:

12       (1) It is the intent of the legislature that a transitional  
13 training benefits program be established to provide unemployment  
14 insurance benefits to unemployed individuals who would be or are  
15 impacted by the changes in benefits made in this act and who are  
16 participating in training programs approved by the commissioner. If  
17 section 12(2)(b) of this act does not take effect by July 1, 2003, this  
18 section is null and void. With respect to claims that have an  
19 effective date before January 7, 2007, the employment security  
20 department is authorized to pay transitional training benefits under  
21 this section, but may not obligate expenditures of more than the  
22 following:

23       (a) For the fiscal year ending June 30, 2004, ten million dollars;

24       (b) For the fiscal year ending June 30, 2005, ten million dollars;

25       (c) For the fiscal year ending June 30, 2006, ten million dollars;

26 and

27       (d) For the fiscal year ending June 30, 2007, ten million dollars.

28       (2) Any funds not obligated under subsection (1)(a) through (c) of  
29 this section in any fiscal year may be carried forward to the next  
30 fiscal year to increase, by the amount carried forward, the amount  
31 available to obligate under RCW 50.22.140. The department shall  
32 develop a process to ensure that expenditures under subsection (1) of  
33 this section do not exceed available funds and to prioritize access to  
34 funds when again available.

35       (3) Subject to availability of funds, transitional training  
36 benefits are available for an individual who:

1 (a) Is eligible for or has exhausted entitlement to unemployment  
2 compensation benefits; and

3 (i) As a seasonal worker whose claim has an effective date before  
4 January 4, 2004, would not have received benefits under this title if  
5 section 12(2)(b) of this act had applied to the individual; or

6 (ii) Has a claim that has an effective date on or after July 6,  
7 2004, or has exhausted benefits on or after July 6, 2004, and received  
8 benefits that were limited because of the section 11, chapter..., Laws  
9 of 2003 amendments to RCW 50.20.120 or section 12(2)(b) of this act, or  
10 would have had benefits limited if these provisions had been in effect  
11 at the time the individual's claim became effective;

12 (b) Develops an individual training program that is submitted to  
13 the commissioner for approval within sixty days after the individual is  
14 notified by the employment security department of the requirements of  
15 this section;

16 (c) Enters the approved training program by ninety days after the  
17 date of the notification, unless the employment security department  
18 determines that the training is not available during the ninety-day  
19 period, in which case the individual enters training as soon as it is  
20 available; and

21 (d) Is enrolled in training approved under this section on a  
22 full-time basis as determined by the educational institution, and is  
23 making satisfactory progress in the training as certified by the  
24 educational institution.

25 (4) Benefits under this section shall be paid to eligible  
26 exhaustees as follows:

27 (a) The total benefit amount shall be fifty-two times the  
28 individual's weekly benefit amount, reduced by the total amount of  
29 regular benefits and extended benefits paid, or deemed paid, with  
30 respect to the benefit year.

31 (b)(i) For exhaustees receiving financial aid in the form of  
32 scholarships, grants, tuition waivers, or any other financial aid that  
33 does not require repayment, the weekly benefit amount shall be the same  
34 as the regular weekly amount payable during the applicable benefit year  
35 and shall be paid under the same terms and conditions as regular  
36 benefits.

1 (ii) For other exhaustees, the weekly benefit amount shall be one  
2 and one-fourth times the regular weekly amount payable during the  
3 applicable benefit year and shall be paid under the same terms and  
4 conditions as regular benefits.

5 (c) Transitional training benefits are not payable for weeks more  
6 than two years beyond the end of the benefit year of the regular claim.

7 (5) The requirement under RCW 50.22.010(10) relating to exhausting  
8 regular benefits does not apply to an individual otherwise eligible for  
9 training benefits under this section when the individual's benefit year  
10 ends before his or her training benefits are exhausted and the  
11 individual is eligible for a new benefit year. These individuals will  
12 have the option of remaining on the original claim or filing a new  
13 claim.

14 (6) An individual who received benefits under any other additional  
15 benefits program for training within the five-year period immediately  
16 preceding application under this section is not eligible for training  
17 benefits under this section.

18 (7) An individual eligible to receive emergency unemployment  
19 compensation, so called, under any federal law, is not eligible to  
20 receive benefits under this section for each week the individual  
21 receives such compensation.

22 (8) All base year employers are interested parties to the approval  
23 of training and the granting of transitional training benefits.

24 (9) For purposes of this section:

25 (a) "Educational institution" and "training program" mean the same  
26 as the definitions in RCW 50.22.150.

27 (b) "Exhaustee," "extended benefits," and "regular benefits" mean  
28 the same as the definitions in RCW 50.22.010.

29 **PART II - FINANCING UNEMPLOYMENT COMPENSATION**

30 **Sec. 15.** RCW 50.29.025 and 2003 c 4 (SHB 1832) s 1 are each  
31 amended to read as follows:

32 (1) Except as provided in subsection (2) of this section, the  
33 contribution rate for each employer subject to contributions under RCW  
34 50.24.010 shall be determined under this ((section)) subsection.

1        ~~((1))~~ (a) A fund balance ratio shall be determined by dividing  
 2 the balance in the unemployment compensation fund as of the September  
 3 30th immediately preceding the rate year by the total remuneration paid  
 4 by all employers subject to contributions during the second calendar  
 5 year preceding the rate year and reported to the department by the  
 6 following March 31st. The division shall be carried to the fourth  
 7 decimal place with the remaining fraction, if any, disregarded. The  
 8 fund balance ratio shall be expressed as a percentage.

9        ~~((2))~~ (b) The interval of the fund balance ratio, expressed as a  
 10 percentage, shall determine which tax schedule in (e) of this  
 11 subsection ~~((5) of this section)~~ shall be in effect for assigning tax  
 12 rates for the rate year. The intervals for determining the effective  
 13 tax schedule shall be:

Interval of the Fund Balance Ratio Expressed as a Percentage	Effective Tax Schedule
2.90 and above	AA
2.10 to 2.89	A
1.70 to 2.09	B
1.40 to 1.69	C
1.00 to 1.39	D
0.70 to 0.99	E
Less than 0.70	F

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24        ~~((3))~~ (c) An array shall be prepared, listing all qualified  
 25 employers in ascending order of their benefit ratios. The array shall  
 26 show for each qualified employer: ~~((a))~~ (i) Identification number;  
 27 ~~((b))~~ (ii) benefit ratio; ~~((c))~~ (iii) taxable payrolls for the four  
 28 calendar quarters immediately preceding the computation date and  
 29 reported to the department by the cut-off date; ~~((d))~~ (iv) a  
 30 cumulative total of taxable payrolls consisting of the employer's  
 31 taxable payroll plus the taxable payrolls of all other employers  
 32 preceding him or her in the array; and ~~((e))~~ (v) the percentage  
 33 equivalent of the cumulative total of taxable payrolls.

34        ~~((4))~~ (d) Each employer in the array shall be assigned to one of  
 35 twenty rate classes according to the percentage intervals of cumulative

1 taxable payrolls set forth in (e) of this subsection (~~((5) of this~~  
 2 ~~section))~~): PROVIDED, That if an employer's taxable payroll falls  
 3 within two or more rate classes, the employer and any other employer  
 4 with the same benefit ratio shall be assigned to the lowest rate class  
 5 which includes any portion of the employer's taxable payroll.

6 ~~((5))~~ (e) Except as provided in RCW 50.29.026, the contribution  
 7 rate for each employer in the array shall be the rate specified in the  
 8 following tables for the rate class to which he or she has been  
 9 assigned, as determined under (d) of this subsection (~~((4) of this~~  
 10 ~~section))~~), within the tax schedule which is to be in effect during the  
 11 rate year:

		Percent of Cumulative Taxable Payrolls									
		Schedules of Contributions Rates for Effective Tax Schedule									
		Rate									
		From	To Class	AA	A	B	C	D	E	F	
18		0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47
19		5.01	10.00	2	0.47	0.47	0.77	1.17	1.67	2.07	2.67
20		10.01	15.00	3	0.57	0.57	0.97	1.37	1.77	2.27	2.87
21		15.01	20.00	4	0.57	0.73	1.11	1.51	1.90	2.40	2.98
22		20.01	25.00	5	0.72	0.92	1.30	1.70	2.09	2.59	3.08
23		25.01	30.00	6	0.91	1.11	1.49	1.89	2.29	2.69	3.18
24		30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27
25		35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47
26		40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66
27		45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86
28		50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95
29		55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15
30		60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34
31		65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54
32		70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63
33		75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73
34		80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97
35		85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17
36		90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37
37		95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40

38 ~~((6))~~ (f) The contribution rate for each employer not qualified  
 39 to be in the array shall be as follows:

1        ~~((a))~~ (i) Employers who do not meet the definition of "qualified  
2 employer" by reason of failure to pay contributions when due shall be  
3 assigned a contribution rate two-tenths higher than that in rate class  
4 20 for the applicable rate year, except employers who have an approved  
5 agency-deferred payment contract by September 30 of the previous rate  
6 year. If any employer with an approved agency-deferred payment  
7 contract fails to make any one of the succeeding deferred payments or  
8 fails to submit any succeeding tax report and payment in a timely  
9 manner, the employer's tax rate shall immediately revert to a  
10 contribution rate two-tenths higher than that in rate class 20 for the  
11 applicable rate year; and

12        ~~((b))~~ (ii) For all other employers not qualified to be in the  
13 array, the contribution rate shall be a rate equal to the average  
14 industry rate as determined by the commissioner; however, the rate may  
15 not be less than one percent. ~~((Assignment of employers by the  
16 commissioner to industrial classification, for purposes of this  
17 section, shall be in accordance with established classification  
18 practices found in the "Standard Industrial Classification Manual"  
19 issued by the federal office of management and budget to the third  
20 digit provided in the standard industrial classification code, or in  
21 the North American industry classification system code.))~~

22        (2) Beginning with contributions assessed for rate year 2005, the  
23 contribution rate for each employer subject to contributions under RCW  
24 50.24.010 shall be the sum of the array calculation factor rate and the  
25 graduated social cost factor rate determined under this subsection, and  
26 the solvency surcharge determined under section 17 of this act, if any.

27        (a) The array calculation factor rate shall be determined as  
28 follows:

29        (i) An array shall be prepared, listing all qualified employers in  
30 ascending order of their benefit ratios. The array shall show for each  
31 qualified employer: (A) Identification number; (B) benefit ratio; and  
32 (C) taxable payrolls for the four consecutive calendar quarters  
33 immediately preceding the computation date and reported to the  
34 employment security department by the cut-off date.

35        (ii) Each employer in the array shall be assigned to one of forty  
36 rate classes according to his or her benefit ratio as follows, and,

1 except as provided in RCW 50.29.026, the array calculation factor rate  
 2 for each employer in the array shall be the rate specified in the rate  
 3 class to which the employer has been assigned:

	<u>Benefit Ratio</u>		<u>Rate</u>	<u>Rate</u>
	<u>At least</u>	<u>Less than</u>	<u>Class</u>	<u>(percent)</u>
4		<u>0.000001</u>	<u>1</u>	<u>0.00</u>
5		<u>0.000001</u>	<u>2</u>	<u>0.13</u>
6	<u>0.000001</u>	<u>0.001250</u>	<u>3</u>	<u>0.25</u>
7	<u>0.001250</u>	<u>0.002500</u>	<u>4</u>	<u>0.38</u>
8	<u>0.002500</u>	<u>0.003750</u>	<u>5</u>	<u>0.50</u>
9	<u>0.003750</u>	<u>0.005000</u>	<u>6</u>	<u>0.63</u>
10	<u>0.005000</u>	<u>0.006250</u>	<u>7</u>	<u>0.75</u>
11	<u>0.006250</u>	<u>0.007500</u>	<u>8</u>	<u>0.88</u>
12	<u>0.007500</u>	<u>0.008750</u>	<u>9</u>	<u>1.00</u>
13	<u>0.008750</u>	<u>0.010000</u>	<u>10</u>	<u>1.15</u>
14	<u>0.010000</u>	<u>0.011250</u>	<u>11</u>	<u>1.30</u>
15	<u>0.011250</u>	<u>0.012500</u>	<u>12</u>	<u>1.45</u>
16	<u>0.012500</u>	<u>0.013750</u>	<u>13</u>	<u>1.60</u>
17	<u>0.013750</u>	<u>0.015000</u>	<u>14</u>	<u>1.75</u>
18	<u>0.015000</u>	<u>0.016250</u>	<u>15</u>	<u>1.90</u>
19	<u>0.016250</u>	<u>0.017500</u>	<u>16</u>	<u>2.05</u>
20	<u>0.017500</u>	<u>0.018750</u>	<u>17</u>	<u>2.20</u>
21	<u>0.018750</u>	<u>0.020000</u>	<u>18</u>	<u>2.35</u>
22	<u>0.020000</u>	<u>0.021250</u>	<u>19</u>	<u>2.50</u>
23	<u>0.021250</u>	<u>0.022500</u>	<u>20</u>	<u>2.65</u>
24	<u>0.022500</u>	<u>0.023750</u>	<u>21</u>	<u>2.80</u>
25	<u>0.023750</u>	<u>0.025000</u>	<u>22</u>	<u>2.95</u>
26	<u>0.025000</u>	<u>0.026250</u>	<u>23</u>	<u>3.10</u>
27	<u>0.026250</u>	<u>0.027500</u>	<u>24</u>	<u>3.25</u>
28	<u>0.027500</u>	<u>0.028750</u>	<u>25</u>	<u>3.40</u>
29	<u>0.028750</u>	<u>0.030000</u>	<u>26</u>	<u>3.55</u>
30	<u>0.030000</u>	<u>0.031250</u>	<u>27</u>	<u>3.70</u>
31	<u>0.031250</u>	<u>0.032500</u>	<u>28</u>	<u>3.85</u>
32	<u>0.032500</u>	<u>0.033750</u>	<u>29</u>	<u>4.00</u>
33	<u>0.033750</u>	<u>0.035000</u>	<u>30</u>	<u>4.15</u>
34	<u>0.035000</u>	<u>0.036250</u>	<u>31</u>	<u>4.30</u>
35	<u>0.036250</u>	<u>0.037500</u>		
36				

1	<u>0.037500</u>	<u>0.040000</u>	<u>32</u>	<u>4.45</u>
2	<u>0.040000</u>	<u>0.042500</u>	<u>33</u>	<u>4.60</u>
3	<u>0.042500</u>	<u>0.045000</u>	<u>34</u>	<u>4.75</u>
4	<u>0.045000</u>	<u>0.047500</u>	<u>35</u>	<u>4.90</u>
5	<u>0.047500</u>	<u>0.050000</u>	<u>36</u>	<u>5.05</u>
6	<u>0.050000</u>	<u>0.052500</u>	<u>37</u>	<u>5.20</u>
7	<u>0.052500</u>	<u>0.055000</u>	<u>38</u>	<u>5.30</u>
8	<u>0.055000</u>	<u>0.057500</u>	<u>39</u>	<u>5.35</u>
9	<u>0.057500</u>		<u>40</u>	<u>5.40</u>

10 (b) The graduated social cost factor rate shall be determined as  
11 follows:

12 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,  
13 the commissioner shall calculate the flat social cost factor for a rate  
14 year by dividing the total social cost by the total taxable payroll.  
15 The division shall be carried to the second decimal place with the  
16 remaining fraction disregarded unless it amounts to five hundredths or  
17 more, in which case the second decimal place shall be rounded to the  
18 next higher digit. The flat social cost factor shall be expressed as  
19 a percentage.

20 (B) If, on the cut-off date, the balance in the unemployment  
21 compensation fund is determined by the commissioner to be an amount  
22 that will provide more than ten months of unemployment benefits, the  
23 commissioner shall calculate the flat social cost factor for the rate  
24 year immediately following the cut-off date by reducing the total  
25 social cost by the dollar amount that represents the number of months  
26 for which the balance in the unemployment compensation fund on the cut-  
27 off date will provide benefits above ten months and dividing the result  
28 by the total taxable payroll. However, the calculation under this  
29 subsection (2)(b)(i)(B) for a rate year may not result in a flat social  
30 cost factor that is more than two-tenths lower than the calculation  
31 under (b)(i)(A) of this subsection for that rate year. For the  
32 purposes of this subsection, the commissioner shall determine the  
33 number of months of unemployment benefits in the unemployment  
34 compensation fund using the benefit cost rate for the average of the  
35 three highest calendar benefit cost rates in the twenty consecutive  
36 completed calendar years immediately preceding the cut-off date or a

1 period of consecutive calendar years immediately preceding the cut-off  
2 date that includes three recessions, if longer.

3 (C) The minimum flat social cost factor calculated under this  
4 subsection (2)(b) shall be six-tenths of one percent.

5 (ii) The graduated social cost factor rate for each employer in the  
6 array is the flat social cost factor multiplied by the percentage  
7 specified as follows for the rate class to which the employer has been  
8 assigned in (a)(ii) of this subsection, except that the sum of an  
9 employer's array calculation factor rate and the graduated social cost  
10 factor rate may not exceed six and five-tenths percent:

11 (A) Rate class 1 - 78 percent;

12 (B) Rate class 2 - 82 percent;

13 (C) Rate class 3 - 86 percent;

14 (D) Rate class 4 - 90 percent;

15 (E) Rate class 5 - 94 percent;

16 (F) Rate class 6 - 98 percent;

17 (G) Rate class 7 - 102 percent;

18 (H) Rate class 8 - 106 percent;

19 (I) Rate class 9 - 110 percent;

20 (J) Rate class 10 - 114 percent;

21 (K) Rate class 11 - 118 percent; and

22 (L) Rate classes 12 through 40 - 120 percent.

23 (iii) For the purposes of this section:

24 (A) "Total social cost" means the amount calculated by subtracting  
25 the array calculation factor contributions paid by all employers with  
26 respect to the four consecutive calendar quarters immediately preceding  
27 the computation date and paid to the employment security department by  
28 the cut-off date from the total unemployment benefits paid to claimants  
29 in the same four consecutive calendar quarters. To calculate the flat  
30 social cost factor for rate year 2005, the commissioner shall calculate  
31 the total social cost using the array calculation factor contributions  
32 that would have been required to be paid by all employers in the  
33 calculation period if (a) of this subsection had been in effect for the  
34 relevant period.

35 (B) "Total taxable payroll" means the total amount of wages subject  
36 to tax, as determined under RCW 50.24.010, for all employers in the

1 four consecutive calendar quarters immediately preceding the  
2 computation date and reported to the employment security department by  
3 the cut-off date.

4 (c) The array calculation factor rate for each employer not  
5 qualified to be in the array shall be as follows:

6 (i) Employers who do not meet the definition of "qualified  
7 employer" by reason of failure to pay contributions when due shall be  
8 assigned an array calculation factor rate two-tenths higher than that  
9 in rate class 40, except employers who have an approved agency-deferred  
10 payment contract by September 30th of the previous rate year. If any  
11 employer with an approved agency-deferred payment contract fails to  
12 make any one of the succeeding deferred payments or fails to submit any  
13 succeeding tax report and payment in a timely manner, the employer's  
14 tax rate shall immediately revert to an array calculation factor rate  
15 two-tenths higher than that in rate class 40; and

16 (ii) For all other employers not qualified to be in the array, the  
17 array calculation factor rate shall be a rate equal to the average  
18 industry array calculation factor rate as determined by the  
19 commissioner, plus fifteen percent of that amount; however, the rate  
20 may not be less than one percent or more than the array calculation  
21 factor rate in rate class 40.

22 (d) The graduated social cost factor rate for each employer not  
23 qualified to be in the array shall be as follows:

24 (i) For employers whose array calculation factor rate is determined  
25 under (c)(i) of this subsection, the social cost factor rate shall be  
26 the social cost factor rate assigned to rate class 40 under (b)(ii) of  
27 this subsection.

28 (ii) For employers whose array calculation factor rate is  
29 determined under (c)(ii) of this subsection, the social cost factor  
30 rate shall be a rate equal to the average industry social cost factor  
31 rate as determined by the commissioner, plus fifteen percent of that  
32 amount, but not more than the social cost factor rate assigned to rate  
33 class 40 under (b)(ii) of this subsection.

34 (3) Assignment of employers by the commissioner to industrial  
35 classification, for purposes of this section, shall be in accordance  
36 with established classification practices found in the "Standard  
37 Industrial Classification Manual" issued by the federal office of

1 management and budget to the third digit provided in the standard  
2 industrial classification code, or in the North American industry  
3 classification system code.

4 **Sec. 16.** RCW 50.04.355 and 2000 c 2 s 1 are each amended to read  
5 as follows:

6 (1) For computations made before January 1, 2007, the employment  
7 security department shall compute, on or before the fifteenth day of  
8 June of each year, an "average annual wage", an "average weekly wage",  
9 and an "average annual wage for contributions purposes" (~~shall be~~  
10 ~~computed~~) from information for the specified preceding calendar years  
11 including corrections thereof reported within three months after the  
12 close of the final year of the specified years by all employers as  
13 defined in RCW 50.04.080.

14 ~~((+1))~~ (a) The "average annual wage" is the quotient derived by  
15 dividing the total remuneration reported by all employers for the  
16 preceding calendar year by the average number of workers reported for  
17 all months of the preceding calendar year and if the result is not a  
18 multiple of one dollar, rounding the result to the next lower multiple  
19 of one dollar.

20 ~~((+2))~~ (b) The "average weekly wage" is the quotient derived by  
21 dividing the "average annual wage" obtained under ~~((+1))~~ (a) of this  
22 subsection by fifty-two and if the result is not a multiple of one  
23 dollar, rounding the result to the next lower multiple of one dollar.

24 ~~((+3))~~ (c) The "average annual wage for ~~((contribution[s]))~~  
25 contributions purposes" is the quotient derived by dividing by three  
26 the total remuneration reported by all employers subject to  
27 contributions for the preceding three consecutive calendar years and  
28 dividing this amount by the average number of workers reported for all  
29 months of these three years by these same employers and if the result  
30 is not a multiple of one dollar, rounding the result to the next lower  
31 multiple of one dollar.

32 (2) For computations made on or after January 1, 2007, the  
33 employment security department shall compute, on or before the  
34 fifteenth day of June of each year, an "average annual wage," an  
35 "average weekly wage," and an "average annual wage for contributions

1 purposes" from information for the preceding calendar year including  
2 corrections thereof reported within three months after the close of  
3 that year by all employers as defined in RCW 50.04.080.

4 (a) The "average annual wage" is the quotient derived by dividing  
5 the total remuneration reported by all employers by the average number  
6 of workers reported for all months and if the result is not a multiple  
7 of one dollar, rounding the result to the next lower multiple of one  
8 dollar.

9 (b) The "average weekly wage" is the quotient derived by dividing  
10 the "average annual wage" obtained under (a) of this subsection by  
11 fifty-two and if the result is not a multiple of one dollar, rounding  
12 the result to the next lower multiple of one dollar.

13 (c) The "average annual wage for contributions purposes" is the  
14 quotient derived by dividing the total remuneration reported by all  
15 employers subject to contributions by the average number of workers  
16 reported for all months by these same employers and if the result is  
17 not a multiple of one dollar, rounding the result to the next lower  
18 multiple of one dollar.

19 NEW SECTION. Sec. 17. A new section is added to chapter 50.29 RCW  
20 to read as follows:

21 Beginning with contributions assessed for rate year 2005, the  
22 contribution rate of each employer subject to contributions under RCW  
23 50.24.010 shall include a solvency surcharge determined as follows:

24 (1) This section shall apply to employers' contributions for a rate  
25 year immediately following a cut-off date only if, on the cut-off date,  
26 the balance in the unemployment compensation fund is determined by the  
27 commissioner to be an amount that will provide fewer than six months of  
28 unemployment benefits.

29 (2) The solvency surcharge shall be the lowest rate necessary, as  
30 determined by the commissioner, but not more than two-tenths of one  
31 percent, to provide revenue during the applicable rate year that will  
32 fund unemployment benefits for the number of months that is the  
33 difference between eight months and the number of months for which the  
34 balance in the unemployment compensation fund on the cut-off date will  
35 provide benefits.

1 (3) The basis for determining the number of months of unemployment  
2 benefits shall be the same basis used in RCW 50.29.025(2)(b)(i)(B).

3 **Sec. 18.** RCW 50.29.026 and 2000 c 2 s 5 are each amended to read  
4 as follows:

5 (1) Beginning with contributions assessed for rate year 1996, a  
6 qualified employer's contribution rate applicable for rate years  
7 beginning before January 1, 2005, or array calculation factor rate  
8 applicable for rate years beginning on or after January 1, 2005,  
9 determined under RCW 50.29.025 may be modified as follows:

10 (a) Subject to the limitations of this subsection, an employer may  
11 make a voluntary contribution of an amount equal to part or all of the  
12 benefits charged to the employer's account during the two years most  
13 recently ended on June 30th that were used for the purpose of computing  
14 the employer's contribution rate applicable for rate years beginning  
15 before January 1, 2005, or array calculation factor rate applicable for  
16 rate years beginning on or after January 1, 2005. On receiving timely  
17 payment of a voluntary contribution, plus a surcharge of ten percent of  
18 the amount of the voluntary contribution, the commissioner shall cancel  
19 the benefits equal to the amount of the voluntary contribution,  
20 excluding the surcharge, and compute a new benefit ratio for the  
21 employer. The employer shall then be assigned the contribution rate  
22 applicable for rate years beginning before January 1, 2005, or array  
23 calculation factor rate applicable for rate years beginning on or after  
24 January 1, 2005, applicable to the rate class within which the  
25 recomputed benefit ratio is included. The minimum amount of a  
26 voluntary contribution, excluding the surcharge, must be an amount that  
27 will result in a recomputed benefit ratio that is in a rate class at  
28 least (~~two~~) four rate classes lower than the rate class that included  
29 the employer's original benefit ratio.

30 (b) Payment of a voluntary contribution is considered timely if  
31 received by the department during the period beginning on the date of  
32 mailing to the employer the notice of contribution rate applicable for  
33 rate years beginning before January 1, 2005, or notice of array  
34 calculation factor rate applicable for rate years beginning on or after  
35 January 1, 2005, required under this title for the rate year for which

1 the employer is seeking a modification of his or her ((contribution))  
2 rate and ending on February 15th of that rate year or, for voluntary  
3 contributions for rate year 2000, ending on March 31, 2000.

4 (c) A benefit ratio may not be recomputed nor a ((contribution))  
5 rate be reduced under this section as a result of a voluntary  
6 contribution received after the payment period prescribed in (b) of  
7 this subsection.

8 (2) This section does not apply to any employer who has not had an  
9 increase of at least ((six)) twelve rate classes from the previous tax  
10 rate year.

11 **Sec. 19.** RCW 50.29.062 and 1996 c 238 s 1 are each amended to read  
12 as follows:

13 Predecessor and successor employer contribution rates shall be  
14 computed in the following manner:

15 (1) If the successor is an employer, as defined in RCW 50.04.080,  
16 at the time of the transfer, its contribution rate shall remain  
17 unchanged for the remainder of the rate year in which the transfer  
18 occurs. From and after January 1 following the transfer, the  
19 successor's contribution rate for each rate year shall be based on its  
20 experience with payrolls and benefits including the experience of the  
21 acquired business or portion of a business from the date of transfer,  
22 as of the regular computation date for that rate year.

23 (2) For transfers before January 1, 2005, the following applies if  
24 the successor is not an employer at the time of the transfer((~~it~~)).  
25 The successor shall pay contributions at the lowest rate determined  
26 under either of the following:

27 (a)(i) For transfers before January 1, 1997, the contribution rate  
28 of the rate class assigned to the predecessor employer at the time of  
29 the transfer for the remainder of that rate year and continuing until  
30 the successor qualifies for a different rate in its own right;

31 (ii) For transfers on or after January 1, 1997, the contribution  
32 rate of the rate class assigned to the predecessor employer at the time  
33 of the transfer for the remainder of that rate year. Any experience  
34 relating to the assignment of that rate class attributable to the  
35 predecessor is transferred to the successor. Beginning with the

1 January 1 following the transfer, the successor's contribution rate  
2 shall be based on the transferred experience of the acquired business  
3 and the successor's experience after the transfer; or

4 (b) The contribution rate equal to the average industry rate as  
5 determined by the commissioner, but not less than one percent, and  
6 continuing until the successor qualifies for a different rate in its  
7 own right. Assignment of employers by the commissioner to industrial  
8 classification, for purposes of this subsection, must be in accordance  
9 with established classification practices found in the "Standard  
10 Industrial Classification Manual" issued by the federal office of  
11 management and budget to the third digit provided in the standard  
12 industrial classification code, or in the North American industry  
13 classification code system.

14 (3) For transfers before January 1, 2005, if the successor is not  
15 an employer at the time of the transfer and simultaneously acquires the  
16 business or a portion of the business of two or more employers in  
17 different rate classes, its rate from the date the transfer occurred  
18 until the end of that rate year and until it qualifies in its own right  
19 for a new rate, shall be the highest rate class applicable at the time  
20 of the acquisition to any predecessor employer who is a party to the  
21 acquisition, but not less than one percent.

22 (4) For transfers on or after January 1, 2005, the following  
23 applies if the successor is not an employer at the time of the  
24 transfer:

25 (a) Except as provided in (b) of this subsection, the successor  
26 shall pay contributions:

27 (i) At the contribution rate determined for the predecessor  
28 employer at the time of the transfer for the remainder of the rate  
29 year. Any experience attributable to the predecessor relating to the  
30 assignment of the predecessor's rate class is transferred to the  
31 successor. On and after January 1st following the transfer, the  
32 successor's array calculation factor rate shall be based on the  
33 transferred experience of the acquired business and the successor's  
34 experience after the transfer; or

35 (ii) At the contribution rate equal to the sum of the rates  
36 determined by the commissioner under RCW 50.29.025(2) (c)(ii) and

1 (d)(ii), and section 17 of this act, if applicable, and continuing  
2 until the successor qualifies for a different rate in its own right.

3 (b) If there is a substantial continuity of ownership or management  
4 by the successor of the business of the predecessor, the successor  
5 shall pay contributions at the contribution rate determined for the  
6 predecessor employer at the time of the transfer for the remainder of  
7 that rate year. Any experience attributable to the predecessor  
8 relating to the assignment of the predecessor's rate class is  
9 transferred to the successor. On and after January 1st following the  
10 transfer, the successor's array calculation factor rate shall be based  
11 on the transferred experience of the acquired business and the  
12 successor's experience after the transfer.

13 (c) If the successor simultaneously acquires the business or a  
14 portion of the business of two or more employers with different  
15 contribution rates, the successor's rate from the date the transfer  
16 occurred until the end of that rate year and until it qualifies in its  
17 own right for a new rate, shall be the sum of the rates determined by  
18 the commissioner under RCW 50.29.025(2) (a) and (b), and section 17 of  
19 this act, applicable at the time of the acquisition to the predecessor  
20 employer who, among the parties to the acquisition, had the largest  
21 taxable payroll in the completed calendar quarter immediately preceding  
22 the date of transfer, but not less than the sum of the rates determined  
23 by the commissioner under RCW 50.29.025(2) (c)(ii) and (d)(ii), and  
24 section 17 of this act, if applicable.

25 (5) The contribution rate on any payroll retained by a predecessor  
26 employer shall remain unchanged for the remainder of the rate year in  
27 which the transfer occurs.

28 ~~((+5))~~ (6) In all cases, from and after January 1 following the  
29 transfer, the predecessor's contribution rate or, beginning January 1,  
30 2005, the predecessor's array calculation factor for each rate year  
31 shall be based on its experience with payrolls and benefits as of the  
32 regular computation date for that rate year including the experience of  
33 the acquired business or portion of business up to the date of  
34 transfer: PROVIDED, That if all of the predecessor's business is  
35 transferred to a successor or successors, the predecessor shall not be  
36 a qualified employer until it satisfies the requirements of a  
37 "qualified employer" as set forth in RCW 50.29.010.

1       **Sec. 20.** RCW 50.29.070 and 1990 c 245 s 8 are each amended to read  
2 as follows:

3       (1) Within a reasonable time after the computation date each  
4 employer shall be notified of the employer's rate of contribution as  
5 determined for the succeeding rate year and factors used in the  
6 calculation. Beginning with rate year 2005, the notice must include  
7 the amount of the contribution rate that is attributable to each  
8 component of the rate under RCW 50.29.025(2).

9       (2) Any employer dissatisfied with the benefit charges made to the  
10 employer's account for the twelve-month period immediately preceding  
11 the computation date or with his or her determined rate may file a  
12 request for review and redetermination with the commissioner within  
13 thirty days of the mailing of the notice to the employer, showing the  
14 reason for such request. Should such request for review and  
15 redetermination be denied, the employer may, within thirty days of the  
16 mailing of such notice of denial, file with the appeal tribunal a  
17 petition for hearing which shall be heard in the same manner as a  
18 petition for denial of refund. The appellate procedure prescribed by  
19 this title for further appeal shall apply to all denials of review and  
20 redetermination under this section.

21       **Sec. 21.** RCW 50.29.020 and 2002 c 149 s 6 and 2002 c 8 s 4 are  
22 each reenacted and amended to read as follows:

23       (1) This section applies to benefits charged to the experience  
24 rating accounts of employers for claims that have an effective date  
25 before January 4, 2004.

26       (2) An experience rating account shall be established and  
27 maintained for each employer, except employers as described in RCW  
28 50.44.010 and 50.44.030 who have properly elected to make payments in  
29 lieu of contributions, taxable local government employers as described  
30 in RCW 50.44.035, and those employers who are required to make payments  
31 in lieu of contributions, based on existing records of the employment  
32 security department. Benefits paid to any eligible individuals shall  
33 be charged to the experience rating accounts of each of such  
34 individual's employers during the individual's base year in the same  
35 ratio that the wages paid by each employer to the individual during the

1 base year bear to the wages paid by all employers to that individual  
2 during that base year, except as otherwise provided in this section.

3 ~~((+2))~~ (3) The legislature finds that certain benefit payments, in  
4 whole or in part, should not be charged to the experience rating  
5 accounts of employers except those employers described in RCW 50.44.010  
6 and 50.44.030 who have properly elected to make payments in lieu of  
7 contributions, taxable local government employers described in RCW  
8 50.44.035, and those employers who are required to make payments in  
9 lieu of contributions, as follows:

10 (a) Benefits paid to any individuals later determined to be  
11 ineligible shall not be charged to the experience rating account of any  
12 contribution paying employer.

13 (b) Benefits paid to an individual filing under the provisions of  
14 chapter 50.06 RCW shall not be charged to the experience rating account  
15 of any contribution paying employer only if:

16 (i) The individual files under RCW 50.06.020(1) after receiving  
17 crime victims' compensation for a disability resulting from a nonwork-  
18 related occurrence; or

19 (ii) The individual files under RCW 50.06.020(2).

20 (c) Benefits paid which represent the state's share of benefits  
21 payable as extended benefits defined under RCW 50.22.010(6) shall not  
22 be charged to the experience rating account of any contribution paying  
23 employer.

24 (d) In the case of individuals who requalify for benefits under RCW  
25 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
26 the disqualifying separation shall not be charged to the experience  
27 rating account of the contribution paying employer from whom that  
28 separation took place.

29 (e) Individuals who qualify for benefits under RCW  
30 50.20.050~~((+2)(d))~~ (1)(b)(iii) shall not have their benefits charged  
31 to the experience rating account of any contribution paying employer.

32 (f) In the case of individuals identified under RCW 50.20.015,  
33 benefits paid with respect to a calendar quarter, which exceed the  
34 total amount of wages earned in the state of Washington in the higher  
35 of two corresponding calendar quarters included within the individual's  
36 determination period, as defined in RCW 50.20.015, shall not be charged  
37 to the experience rating account of any contribution paying employer.

1        ~~((3)(a))~~ (4)(a) A contribution-paying base year employer, not  
2 otherwise eligible for relief of charges for benefits under this  
3 section, may receive such relief if the benefit charges result from  
4 payment to an individual who:

5        (i) Last left the employ of such employer voluntarily for reasons  
6 not attributable to the employer;

7        (ii) Was discharged for misconduct connected with his or her work  
8 not a result of inability to meet the minimum job requirements;

9        (iii) Is unemployed as a result of closure or severe curtailment of  
10 operation at the employer's plant, building, worksite, or other  
11 facility. This closure must be for reasons directly attributable to a  
12 catastrophic occurrence such as fire, flood, or other natural disaster;  
13 or

14        (iv) Continues to be employed on a regularly scheduled permanent  
15 part-time basis by a base year employer and who at some time during the  
16 base year was concurrently employed and subsequently separated from at  
17 least one other base year employer. Benefit charge relief ceases when  
18 the employment relationship between the employer requesting relief and  
19 the claimant is terminated. This subsection does not apply to shared  
20 work employers under chapter 50.60 RCW.

21        (b) The employer requesting relief of charges under this subsection  
22 must request relief in writing within thirty days following mailing to  
23 the last known address of the notification of the valid initial  
24 determination of such claim, stating the date and reason for the  
25 separation or the circumstances of continued employment. The  
26 commissioner, upon investigation of the request, shall determine  
27 whether relief should be granted.

28        NEW SECTION. **Sec. 22.** A new section is added to chapter 50.29 RCW  
29 to read as follows:

30        (1) This section applies to benefits charged to the experience  
31 rating accounts of employers for claims that have an effective date on  
32 or after January 4, 2004.

33        (2)(a) An experience rating account shall be established and  
34 maintained for each employer, except employers as described in RCW  
35 50.44.010 and 50.44.030 who have properly elected to make payments in  
36 lieu of contributions, taxable local government employers as described

1 in RCW 50.44.035, and those employers who are required to make payments  
2 in lieu of contributions, based on existing records of the employment  
3 security department.

4 (b) Benefits paid to an eligible individual shall be charged to the  
5 experience rating accounts of each of such individual's employers  
6 during the individual's base year in the same ratio that the wages paid  
7 by each employer to the individual during the base year bear to the  
8 wages paid by all employers to that individual during that base year,  
9 except as otherwise provided in this section.

10 (c) When the eligible individual's separating employer is a covered  
11 contribution paying base year employer, benefits paid to the eligible  
12 individual shall be charged to the experience rating account of only  
13 the individual's separating employer if the individual qualifies for  
14 benefits under:

15 (i) RCW 50.20.050(2)(b)(i), as applicable, and became unemployed  
16 after having worked and earned wages in the bona fide work; or

17 (ii) RCW 50.20.050(2)(b)(v) through (x).

18 (d) Benefits paid to an individual with respect to weeks of the  
19 benefit year that correspond to calendar weeks within a seasonal work  
20 period of a base year employer who had been designated as a seasonal  
21 employer by the commissioner under section 12(2)(c) of this act shall  
22 be charged to the experience rating account of that contribution paying  
23 seasonal employer.

24 (3) The legislature finds that certain benefit payments, in whole  
25 or in part, should not be charged to the experience rating accounts of  
26 employers except those employers described in RCW 50.44.010 and  
27 50.44.030 who have properly elected to make payments in lieu of  
28 contributions, taxable local government employers described in RCW  
29 50.44.035, and those employers who are required to make payments in  
30 lieu of contributions, as follows:

31 (a) Benefits paid to any individual later determined to be  
32 ineligible shall not be charged to the experience rating account of any  
33 contribution paying employer.

34 (b) Benefits paid to an individual filing under the provisions of  
35 chapter 50.06 RCW shall not be charged to the experience rating account  
36 of any contribution paying employer only if:

1 (i) The individual files under RCW 50.06.020(1) after receiving  
2 crime victims' compensation for a disability resulting from a nonwork-  
3 related occurrence; or

4 (ii) The individual files under RCW 50.06.020(2).

5 (c) Benefits paid which represent the state's share of benefits  
6 payable as extended benefits defined under RCW 50.22.010(6) shall not  
7 be charged to the experience rating account of any contribution paying  
8 employer.

9 (d) In the case of individuals who requalify for benefits under RCW  
10 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
11 the disqualifying separation shall not be charged to the experience  
12 rating account of the contribution paying employer from whom that  
13 separation took place.

14 (e) Individuals who qualify for benefits under RCW  
15 50.20.050(2)(b)(iv), as applicable, shall not have their benefits  
16 charged to the experience rating account of any contribution paying  
17 employer.

18 (f) Benefits paid to an individual under section 12(2)(b)(ii) of  
19 this act that are paid for weeks that do not fall within a period  
20 designated by the commissioner as a seasonal work period of any of the  
21 individual's base year employers shall not be charged to the experience  
22 rating account of any contribution paying seasonal employer.

23 (4)(a) A contribution paying base year employer, not otherwise  
24 eligible for relief of charges for benefits under this section, may  
25 receive such relief if the benefit charges result from payment to an  
26 individual who:

27 (i) Last left the employ of such employer voluntarily for reasons  
28 not attributable to the employer;

29 (ii) Was discharged for misconduct or gross misconduct connected  
30 with his or her work not a result of inability to meet the minimum job  
31 requirements;

32 (iii) Is unemployed as a result of closure or severe curtailment of  
33 operation at the employer's plant, building, worksite, or other  
34 facility. This closure must be for reasons directly attributable to a  
35 catastrophic occurrence such as fire, flood, or other natural disaster;  
36 or

1 (iv) Continues to be employed on a regularly scheduled permanent  
2 part-time basis by a base year employer and who at some time during the  
3 base year was concurrently employed and subsequently separated from at  
4 least one other base year employer. Benefit charge relief ceases when  
5 the employment relationship between the employer requesting relief and  
6 the claimant is terminated. This subsection does not apply to shared  
7 work employers under chapter 50.60 RCW.

8 (b) The employer requesting relief of charges under this subsection  
9 must request relief in writing within thirty days following mailing to  
10 the last known address of the notification of the valid initial  
11 determination of such claim, stating the date and reason for the  
12 separation or the circumstances of continued employment. The  
13 commissioner, upon investigation of the request, shall determine  
14 whether relief should be granted.

15 **Sec. 23.** RCW 50.12.220 and 1987 c 111 s 2 are each amended to read  
16 as follows:

17 (1)(a) If an employer fails to file in a timely and complete manner  
18 a report required by RCW 50.12.070 (~~as now or hereafter amended~~), or  
19 the rules adopted pursuant thereto, the employer shall be subject to a  
20 (~~minimum~~) penalty (~~of ten dollars per violation~~) to be determined  
21 by the commissioner, but not to exceed two hundred fifty dollars or ten  
22 percent of the quarterly contributions for each such offense, whichever  
23 is less.

24 (b) If an employer knowingly misrepresents to the employment  
25 security department the amount of his or her payroll upon which  
26 contributions under this title are based, the employer shall be liable  
27 to the state for up to ten times the amount of the difference in  
28 contributions paid, if any, and the amount the employer should have  
29 paid and for the reasonable expenses of auditing his or her books and  
30 collecting such sums. Such liability may be enforced in the name of  
31 the department.

32 (c) If any part of a delinquency for which an assessment is made  
33 under this title is due to an intent to evade the successorship  
34 provisions of RCW 50.29.062, the commissioner shall assign to the  
35 employer, and to any business found to be promoting the evasion of such  
36 provisions, the tax rate determined under RCW 50.29.025 for rate class

1 20 or rate class 40, as applicable, for five consecutive calendar  
2 quarters, beginning with the calendar quarter in which the intent to  
3 evade such provision is found.

4 (2) If contributions are not paid on the date on which they are due  
5 and payable as prescribed by the commissioner, there shall be assessed  
6 a penalty of five percent of the amount of the contributions for the  
7 first month or part thereof of delinquency; there shall be assessed a  
8 total penalty of ten percent of the amount of the contributions for the  
9 second month or part thereof of delinquency; and there shall be  
10 assessed a total penalty of twenty percent of the amount of the  
11 contributions for the third month or part thereof of delinquency. No  
12 penalty so added shall be less than ten dollars. These penalties are  
13 in addition to the interest charges assessed under RCW 50.24.040.

14 (3) Penalties shall not accrue on contributions from an estate in  
15 the hands of a receiver, executor, administrator, trustee in  
16 bankruptcy, common law assignee, or other liquidating officer  
17 subsequent to the date when such receiver, executor, administrator,  
18 trustee in bankruptcy, common law assignee, or other liquidating  
19 officer qualifies as such, but contributions accruing with respect to  
20 employment of persons by a receiver, executor, administrator, trustee  
21 in bankruptcy, common law assignee, or other liquidating officer shall  
22 become due and shall be subject to penalties in the same manner as  
23 contributions due from other employers.

24 (4) Where adequate information has been furnished to the department  
25 and the department has failed to act or has advised the employer of no  
26 liability or inability to decide the issue, penalties shall be waived  
27 by the commissioner. Penalties may also be waived for good cause if  
28 the commissioner determines that the failure to timely file reports or  
29 pay contributions was not due to the employer's fault.

30 (5) Any decision to assess a penalty as provided by this section  
31 shall be made by the chief administrative officer of the tax branch or  
32 his or her designee.

33 (6) Nothing in this section shall be construed to deny an employer  
34 the right to appeal the assessment of any penalty. Such appeal shall  
35 be made in the manner provided in RCW 50.32.030.

1       **Sec. 24.** RCW 50.16.010 and 2002 c 371 s 914 are each amended to  
2 read as follows:

3       (1) There shall be maintained as special funds, separate and apart  
4 from all public moneys or funds of this state an unemployment  
5 compensation fund, an administrative contingency fund, and a federal  
6 interest payment fund, which shall be administered by the commissioner  
7 exclusively for the purposes of this title, and to which RCW 43.01.050  
8 shall not be applicable.

9       (2)(a) The unemployment compensation fund shall consist of:

10       ~~((1))~~ (i) All contributions collected under RCW 50.24.010 and  
11 payments in lieu of contributions collected pursuant to the provisions  
12 of this title~~((τ))~~;

13       ~~((2))~~ (ii) Any property or securities acquired through the use of  
14 moneys belonging to the fund~~((τ))~~;

15       ~~((3))~~ (iii) All earnings of such property or securities~~((τ))~~;

16       ~~((4))~~ (iv) Any moneys received from the federal unemployment  
17 account in the unemployment trust fund in accordance with Title XII of  
18 the social security act, as amended~~((τ))~~;

19       ~~((5))~~ (v) All money recovered on official bonds for losses  
20 sustained by the fund~~((τ))~~;

21       ~~((6))~~ (vi) All money credited to this state's account in the  
22 unemployment trust fund pursuant to section 903 of the social security  
23 act, as amended~~((τ))~~;

24       ~~((7))~~ (vii) All money received from the federal government as  
25 reimbursement pursuant to section 204 of the federal-state extended  
26 compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304)~~((τ))~~;  
27 and

28       ~~((8))~~ (viii) All moneys received for the fund from any other  
29 source.

30       (b) All moneys in the unemployment compensation fund shall be  
31 commingled and undivided.

32       (3)(a) Except as provided in (b) of this subsection, the  
33 administrative contingency fund shall consist of:

34       (i) All interest on delinquent contributions collected pursuant to  
35 this title~~((τ))~~;

36       (ii) All fines and penalties collected pursuant to the provisions  
37 of this title~~((τ))~~;

1        (iii) All sums recovered on official bonds for losses sustained by  
2 the fund(~~(7)~~); and  
3        (iv) Revenue received under RCW 50.24.014(~~(7)---PROVIDED, That~~)).  
4        (b) All fees, fines, forfeitures, and penalties collected or  
5 assessed by a district court because of the violation of (~~a state~~  
6 ~~law~~) this title or rules adopted under this title shall be remitted as  
7 provided in chapter 3.62 RCW (~~as now exists or is later amended~~)).  
8        (c) Moneys available in the administrative contingency fund, other  
9 than money in the special account created under RCW 50.24.014(1)(a),  
10 shall be expended upon the direction of the commissioner, with the  
11 approval of the governor, whenever it appears to him or her that such  
12 expenditure is necessary solely for:  
13        (~~(a)~~) (i) The proper administration of this title and no federal  
14 funds are available for the specific purpose to which such expenditure  
15 is to be made, provided, the moneys are not substituted for  
16 appropriations from federal funds which, in the absence of such moneys,  
17 would be made available.  
18        (~~(b)~~) (ii) The proper administration of this title for which  
19 purpose appropriations from federal funds have been requested but not  
20 yet received, provided, the administrative contingency fund will be  
21 reimbursed upon receipt of the requested federal appropriation.  
22        (~~(c)~~) (iii) The proper administration of this title for which  
23 compliance and audit issues have been identified that establish federal  
24 claims requiring the expenditure of state resources in resolution.  
25 Claims must be resolved in the following priority: First priority is  
26 to provide services to eligible participants within the state; second  
27 priority is to provide substitute services or program support; and last  
28 priority is the direct payment of funds to the federal government.  
29        (~~During the 2001-2003 fiscal biennium, the cost of worker~~  
30 ~~retraining programs at community and technical colleges as appropriated~~  
31 ~~by the legislature.~~)  
32        Money in the special account created under RCW 50.24.014(1)(a) may  
33 only be expended, after appropriation, for the purposes specified in  
34 this section and RCW 50.62.010, 50.62.020, 50.62.030, (~~50.04.070,~~  
35 ~~50.04.072, 50.16.010, 50.29.025,~~) 50.24.014, 50.44.053, and 50.22.010.

1       **Sec. 25.** RCW 50.16.015 and 1983 1st ex.s. c 13 s 6 are each  
2 amended to read as follows:

3       A separate and identifiable fund to provide for the payment of  
4 interest on advances received from this state's account in the federal  
5 unemployment trust fund shall be established and administered under the  
6 direction of the commissioner. This fund shall be known as the federal  
7 interest payment fund and shall consist of contributions paid under RCW  
8 50.16.070. All money in this fund shall be expended solely for the  
9 payment of interest on advances received from this state's account in  
10 the federal unemployment trust fund and for no other purposes  
11 whatsoever.

12       **Sec. 26.** RCW 50.24.014 and 2000 c 2 s 15 are each amended to read  
13 as follows:

14       (1)(a) A separate and identifiable account to provide for the  
15 financing of special programs to assist the unemployed is established  
16 in the administrative contingency fund. All money in this account  
17 shall be expended solely for the purposes of this title and for no  
18 other purposes whatsoever. Contributions to this account shall accrue  
19 and become payable by each employer, except employers as described in  
20 RCW 50.44.010 and 50.44.030 who have properly elected to make payments  
21 in lieu of contributions, taxable local government employers as  
22 described in RCW 50.44.035, and those employers who are required to  
23 make payments in lieu of contributions, at a basic rate of two one-  
24 hundredths of one percent. The amount of wages subject to tax shall be  
25 determined under RCW 50.24.010.

26       (b) A separate and identifiable account is established in the  
27 administrative contingency fund for financing the employment security  
28 department's administrative cost under RCW 50.22.150 and the costs  
29 under RCW 50.22.150(9). All money in this account shall be expended  
30 solely for the purposes of this title and for no other purposes  
31 whatsoever. Contributions to this account shall accrue and become  
32 payable by each employer, except employers as described in RCW  
33 50.44.010 and 50.44.030 who have properly elected to make payments in  
34 lieu of contributions, taxable local government employers as described  
35 in RCW 50.44.035, those employers who are required to make payments in  
36 lieu of contributions, those employers described under RCW

1 50.29.025(~~(6)(b)~~) (1)(f)(ii), and those qualified employers assigned  
2 rate class 20 or rate class 40, as applicable, under RCW 50.29.025, at  
3 a basic rate of one one-hundredth of one percent. The amount of wages  
4 subject to tax shall be determined under RCW 50.24.010. Any amount of  
5 contributions payable under this subsection (1)(b) that exceeds the  
6 amount that would have been collected at a rate of four one-thousandths  
7 of one percent must be deposited in the unemployment compensation trust  
8 fund.

9 (c) For the first calendar quarter of 1994 only, the basic two one-  
10 hundredths of one percent contribution payable under (a) of this  
11 subsection shall be increased by one-hundredth of one percent to a  
12 total rate of three one-hundredths of one percent. The proceeds of  
13 this incremental one-hundredth of one percent shall be used solely for  
14 the purposes described in section 22, chapter 483, Laws of 1993, and  
15 for the purposes of conducting an evaluation of the call center  
16 approach to unemployment insurance under section 5, chapter 161, Laws  
17 of 1998. During the 1997-1999 fiscal biennium, any surplus from  
18 contributions payable under this subsection (c) may be deposited in the  
19 unemployment compensation trust fund, used to support tax and wage  
20 automated systems projects that simplify and streamline employer  
21 reporting, or both.

22 (2)(a) Contributions under this section shall become due and be  
23 paid by each employer under rules as the commissioner may prescribe,  
24 and shall not be deducted, in whole or in part, from the remuneration  
25 of individuals in the employ of the employer. Any deduction in  
26 violation of this section is unlawful.

27 (b) In the payment of any contributions under this section, a  
28 fractional part of a cent shall be disregarded unless it amounts to  
29 one-half cent or more, in which case it shall be increased to one cent.

30 (3) If the commissioner determines that federal funding has been  
31 increased to provide financing for the services specified in chapter  
32 50.62 RCW, the commissioner shall direct that collection of  
33 contributions under this section be terminated on the following January  
34 1st.

35 **Sec. 27.** RCW 50.20.190 and 2002 c 371 s 915 are each amended to  
36 read as follows:

1           (1) An individual who is paid any amount as benefits under this  
2 title to which he or she is not entitled shall, unless otherwise  
3 relieved pursuant to this section, be liable for repayment of the  
4 amount overpaid. The department shall issue an overpayment assessment  
5 setting forth the reasons for and the amount of the overpayment. The  
6 amount assessed, to the extent not collected, may be deducted from any  
7 future benefits payable to the individual: PROVIDED, That in the  
8 absence of a back pay award, a settlement affecting the allowance of  
9 benefits, fraud, misrepresentation, or willful nondisclosure, every  
10 determination of liability shall be mailed or personally served not  
11 later than two years after the close of or final payment made on the  
12 individual's applicable benefit year for which the purported  
13 overpayment was made, whichever is later, unless the merits of the  
14 claim are subjected to administrative or judicial review in which event  
15 the period for serving the determination of liability shall be extended  
16 to allow service of the determination of liability during the six-month  
17 period following the final decision affecting the claim.

18           (2) The commissioner may waive an overpayment if the commissioner  
19 finds that the overpayment was not the result of fraud,  
20 misrepresentation, willful nondisclosure, or fault attributable to the  
21 individual and that the recovery thereof would be against equity and  
22 good conscience: PROVIDED, HOWEVER, That the overpayment so waived  
23 shall be charged against the individual's applicable entitlement for  
24 the eligibility period containing the weeks to which the overpayment  
25 was attributed as though such benefits had been properly paid.

26           (3) Any assessment herein provided shall constitute a determination  
27 of liability from which an appeal may be had in the same manner and to  
28 the same extent as provided for appeals relating to determinations in  
29 respect to claims for benefits: PROVIDED, That an appeal from any  
30 determination covering overpayment only shall be deemed to be an appeal  
31 from the determination which was the basis for establishing the  
32 overpayment unless the merits involved in the issue set forth in such  
33 determination have already been heard and passed upon by the appeal  
34 tribunal. If no such appeal is taken to the appeal tribunal by the  
35 individual within thirty days of the delivery of the notice of  
36 determination of liability, or within thirty days of the mailing of the  
37 notice of determination, whichever is the earlier, the determination of

1 liability shall be deemed conclusive and final. Whenever any such  
2 notice of determination of liability becomes conclusive and final, the  
3 commissioner, upon giving at least twenty days notice by certified mail  
4 return receipt requested to the individual's last known address of the  
5 intended action, may file with the superior court clerk of any county  
6 within the state a warrant in the amount of the notice of determination  
7 of liability plus a filing fee under RCW 36.18.012(10). The clerk of  
8 the county where the warrant is filed shall immediately designate a  
9 superior court cause number for the warrant, and the clerk shall cause  
10 to be entered in the judgment docket under the superior court cause  
11 number assigned to the warrant, the name of the person(s) mentioned in  
12 the warrant, the amount of the notice of determination of liability,  
13 and the date when the warrant was filed. The amount of the warrant as  
14 docketed shall become a lien upon the title to, and any interest in,  
15 all real and personal property of the person(s) against whom the  
16 warrant is issued, the same as a judgment in a civil case duly docketed  
17 in the office of such clerk. A warrant so docketed shall be sufficient  
18 to support the issuance of writs of execution and writs of garnishment  
19 in favor of the state in the manner provided by law for a civil  
20 judgment. A copy of the warrant shall be mailed to the person(s)  
21 mentioned in the warrant by certified mail to the person's last known  
22 address within five days of its filing with the clerk.

23 (4) On request of any agency which administers an employment  
24 security law of another state, the United States, or a foreign  
25 government and which has found in accordance with the provisions of  
26 such law that a claimant is liable to repay benefits received under  
27 such law, the commissioner may collect the amount of such benefits from  
28 the claimant to be refunded to the agency. In any case in which under  
29 this section a claimant is liable to repay any amount to the agency of  
30 another state, the United States, or a foreign government, such amounts  
31 may be collected without interest by civil action in the name of the  
32 commissioner acting as agent for such agency if the other state, the  
33 United States, or the foreign government extends such collection rights  
34 to the employment security department of the state of Washington, and  
35 provided that the court costs be paid by the governmental agency  
36 benefiting from such collection.

1 (5) Any employer who is a party to a back pay award or settlement  
2 due to loss of wages shall, within thirty days of the award or  
3 settlement, report to the department the amount of the award or  
4 settlement, the name and social security number of the recipient of the  
5 award or settlement, and the period for which it is awarded. When an  
6 individual has been awarded or receives back pay, for benefit purposes  
7 the amount of the back pay shall constitute wages paid in the period  
8 for which it was awarded. For contribution purposes, the back pay  
9 award or settlement shall constitute wages paid in the period in which  
10 it was actually paid. The following requirements shall also apply:

11 (a) The employer shall reduce the amount of the back pay award or  
12 settlement by an amount determined by the department based upon the  
13 amount of unemployment benefits received by the recipient of the award  
14 or settlement during the period for which the back pay award or  
15 settlement was awarded;

16 (b) The employer shall pay to the unemployment compensation fund,  
17 in a manner specified by the commissioner, an amount equal to the  
18 amount of such reduction;

19 (c) The employer shall also pay to the department any taxes due for  
20 unemployment insurance purposes on the entire amount of the back pay  
21 award or settlement notwithstanding any reduction made pursuant to (a)  
22 of this subsection;

23 (d) If the employer fails to reduce the amount of the back pay  
24 award or settlement as required in (a) of this subsection, the  
25 department shall issue an overpayment assessment against the recipient  
26 of the award or settlement in the amount that the back pay award or  
27 settlement should have been reduced; and

28 (e) If the employer fails to pay to the department an amount equal  
29 to the reduction as required in (b) of this subsection, the department  
30 shall issue an assessment of liability against the employer which shall  
31 be collected pursuant to the procedures for collection of assessments  
32 provided herein and in RCW 50.24.110.

33 (6) When an individual fails to repay an overpayment assessment  
34 that is due and fails to arrange for satisfactory repayment terms, the  
35 commissioner shall impose an interest penalty of one percent per month  
36 of the outstanding balance. Interest shall accrue immediately on  
37 overpayments assessed pursuant to RCW 50.20.070 and shall be imposed

1 when the assessment becomes final. For any other overpayment, interest  
2 shall accrue when the individual has missed two or more of (~~their~~)  
3 the individual's monthly payments either partially or in full. The  
4 interest penalty shall be used, first, to fully fund either social  
5 security number cross-match audits or other more effective activities  
6 that ensure that individuals are entitled to all amounts of benefits  
7 that they are paid and, second, to fund other detection and recovery of  
8 overpayment and collection activities (~~and, during the 2001-2003~~  
9 ~~fiscal biennium, the cost of worker retraining programs at community~~  
10 ~~and technical colleges as appropriated by the legislature)).~~

11 **Sec. 28.** RCW 50.04.206 and 1990 c 245 s 3 are each amended to read  
12 as follows:

13 The term "employment" shall not include service that is performed  
14 by a nonresident alien for the period he or she is temporarily present  
15 in the United States as a nonimmigrant under subparagraph (F), (H)(ii),  
16 (H)(iii), or (J) of section 101(a)(15) of the federal immigration and  
17 naturalization act, as amended, and that is performed to carry out the  
18 purpose specified in the applicable subparagraph of the federal  
19 immigration and naturalization act.

20 **PART III - ADMINISTRATION**

21 **Sec. 29.** RCW 50.20.140 and 1998 c 161 s 2 are each amended to read  
22 as follows:

23 (1) An application for initial determination, a claim for waiting  
24 period, or a claim for benefits shall be filed in accordance with such  
25 rules as the commissioner may prescribe. An application for an initial  
26 determination may be made by any individual whether unemployed or not.  
27 Each employer shall post and maintain printed statements of such rules  
28 in places readily accessible to individuals in his or her employment  
29 and shall make available to each such individual at the time he or she  
30 becomes unemployed, a printed statement of such rules and such notices,  
31 instructions, and other material as the commissioner may by rule  
32 prescribe. Such printed material shall be supplied by the commissioner  
33 to each employer without cost to the employer.

1       (2) The term "application for initial determination" shall mean a  
2 request in writing, or by other means as determined by the  
3 commissioner, for an initial determination. The term "claim for  
4 waiting period" shall mean a certification, after the close of a given  
5 week, that the requirements stated herein for eligibility for waiting  
6 period have been met. The term "claim for benefits" shall mean a  
7 certification, after the close of a given week, that the requirements  
8 stated herein for eligibility for receipt of benefits have been met.

9       (3) A representative designated by the commissioner shall take the  
10 application for initial determination and for the claim for waiting  
11 period credits or for benefits. When an application for initial  
12 determination has been made, the employment security department shall  
13 promptly make an initial determination which shall be a statement of  
14 the applicant's base year wages, his or her weekly benefit amount, his  
15 or her maximum amount of benefits potentially payable, and his or her  
16 benefit year. Such determination shall fix the general conditions  
17 under which waiting period credit shall be granted and under which  
18 benefits shall be paid during any period of unemployment occurring  
19 within the benefit year fixed by such determination.

20       (4) The legislature finds that the shift by the employment security  
21 department from in-person written applications for unemployment  
22 insurance benefits to call centers and internet applications has  
23 increased the potential for fraud. Therefore, the employment security  
24 department must require claimants filing initial and weekly claims  
25 telephonically or electronically to provide additional proof of  
26 identity, such as a valid driver's license, a valid identification  
27 card, or other similar proof specified in rule by the department.

28       NEW SECTION. Sec. 30. The employment security department shall:

29       (1) In consultation with an advisory committee equally representing  
30 business and labor, identify the programs funded by special  
31 administrative contributions under Title 50 RCW and report to the  
32 advisory committee the expenditures for these programs annually and  
33 cumulatively since enactment. Following its report to the advisory  
34 committee, the department shall report its findings and any  
35 recommendations to the appropriate committees of the legislature by  
36 December 1, 2003.

1 (2) Conduct a review of the type, rate, and causes of employer  
2 turnover in the unemployment compensation system, using unified  
3 business identifier information or other relevant data bases and  
4 methods. The department shall report its findings and any  
5 recommendations to the appropriate committees of the legislature by  
6 December 1, 2003.

7 (3) Conduct a study of the potential for year to year volatility,  
8 if any, in the rate classes to which employers in the array are  
9 assigned under RCW 50.29.025(2)(a)(ii). The department shall report  
10 its findings and any recommendations for minimizing the potential for  
11 year to year volatility to the appropriate committees of the  
12 legislature by December 1, 2003.

13 **PART IV - MISCELLANEOUS**

14 **Sec. 31.** RCW 50.20.043 and 1985 c 40 s 1 are each amended to read  
15 as follows:

16 No otherwise eligible individual shall be denied benefits for any  
17 week because the individual is in training with the approval of the  
18 commissioner, nor shall such individual be denied benefits with respect  
19 to any week in which the individual is satisfactorily progressing in a  
20 training program with the approval of the commissioner by reason of the  
21 application of RCW 50.20.010(~~((+3))~~) (1)(c), (~~((50-20-015-7))~~) 50.20.080,  
22 or 50.22.020(1) relating to availability for work and active search for  
23 work, or failure to apply for or refusal to accept suitable work.

24 An individual who the commissioner determines to be a dislocated  
25 worker as defined by RCW 50.04.075 and who is satisfactorily  
26 progressing in a training program approved by the commissioner shall be  
27 considered to be in training with the approval of the commissioner.

28 **Sec. 32.** RCW 50.20.160 and 1990 c 245 s 4 are each amended to read  
29 as follows:

30 (1) A determination of amount of benefits potentially payable  
31 issued pursuant to the provisions of RCW 50.20.120 and 50.20.140 shall  
32 not serve as a basis for appeal but shall be subject to request by the  
33 claimant for reconsideration and/or for redetermination by the  
34 commissioner at any time within one year from the date of delivery or

1 mailing of such determination, or any redetermination thereof:  
2 PROVIDED, That in the absence of fraud or misrepresentation on the part  
3 of the claimant, any benefits paid prior to the date of any  
4 redetermination which reduces the amount of benefits payable shall not  
5 be subject to recovery under the provisions of RCW 50.20.190. A denial  
6 of a request to reconsider or a redetermination shall be furnished the  
7 claimant in writing and provide the basis for appeal under the  
8 provisions of RCW 50.32.020.

9 (2) A determination of denial of benefits issued under the  
10 provisions of RCW 50.20.180 shall become final, in absence of timely  
11 appeal therefrom: PROVIDED, That the commissioner may reconsider and  
12 redetermine such determinations at any time within one year from  
13 delivery or mailing to correct an error in identity, omission of fact,  
14 or misapplication of law with respect to the facts.

15 (3) A determination of allowance of benefits shall become final, in  
16 absence of a timely appeal therefrom: PROVIDED, That the commissioner  
17 may redetermine such allowance at any time within two years following  
18 the benefit year in which such allowance was made in order to recover  
19 any benefits improperly paid and for which recovery is provided under  
20 the provisions of RCW 50.20.190: AND PROVIDED FURTHER, That in the  
21 absence of fraud, misrepresentation, or nondisclosure, this provision  
22 or the provisions of RCW 50.20.190 shall not be construed so as to  
23 permit redetermination or recovery of an allowance of benefits which  
24 having been made after consideration of the provisions of RCW  
25 50.20.010(~~(+3)~~) (1)(c), or the provisions of RCW 50.20.050, 50.20.060,  
26 50.20.080, or 50.20.090 has become final.

27 (4) A redetermination may be made at any time: (a) To conform to  
28 a final court decision applicable to either an initial determination or  
29 a determination of denial or allowance of benefits; (b) in the event of  
30 a back pay award or settlement affecting the allowance of benefits; or  
31 (c) in the case of fraud, misrepresentation, or willful nondisclosure.  
32 Written notice of any such redetermination shall be promptly given by  
33 mail or delivered to such interested parties as were notified of the  
34 initial determination or determination of denial or allowance of  
35 benefits and any new interested party or parties who, pursuant to such  
36 regulation as the commissioner may prescribe, would be an interested  
37 party.

1       **Sec. 33.** RCW 50.32.040 and 1989 c 175 s 117 are each amended to  
2 read as follows:

3       In any proceeding before an appeal tribunal involving a dispute of  
4 an individual's initial determination, all matters covered by such  
5 initial determination shall be deemed to be in issue irrespective of  
6 the particular ground or grounds set forth in the notice of appeal.

7       In any proceeding before an appeal tribunal involving a dispute of  
8 an individual's claim for waiting period credit or claim for benefits,  
9 all matters and provisions of this title relating to the individual's  
10 right to receive such credit or benefits for the period in question,  
11 including but not limited to the question and nature of the claimant's  
12 availability for work within the meaning of RCW 50.20.010(~~(+3)~~) (1)(c)  
13 and 50.20.080, shall be deemed to be in issue irrespective of the  
14 particular ground or grounds set forth in the notice of appeal in  
15 single claimant cases. The claimant's availability for work shall be  
16 determined apart from all other matters.

17       In any proceeding before an appeal tribunal involving an  
18 individual's right to benefits, all parties shall be afforded an  
19 opportunity for hearing after not less than seven days' notice in  
20 accordance with RCW 34.05.434.

21       In any proceeding involving an appeal relating to benefit  
22 determinations or benefit claims, the appeal tribunal, after affording  
23 the parties reasonable opportunity for fair hearing, shall render its  
24 decision affirming, modifying, or setting aside the determination or  
25 decisions of the unemployment compensation division. The parties shall  
26 be duly notified of such appeal tribunal's decision together with its  
27 reasons therefor, which shall be deemed to be the final decision on the  
28 initial determination or the claim for waiting period credit or the  
29 claim for benefits unless, within thirty days after the date of  
30 notification or mailing, whichever is the earlier, of such decision,  
31 further appeal is perfected pursuant to the provisions of this title  
32 relating to review by the commissioner.

33       **Sec. 34.** RCW 28B.50.030 and 1997 c 367 s 13 are each amended to  
34 read as follows:

35       As used in this chapter, unless the context requires otherwise, the  
36 term:

- 1 (1) "System" shall mean the state system of community and technical  
2 colleges, which shall be a system of higher education.
- 3 (2) "Board" shall mean the work force training and education  
4 coordinating board.
- 5 (3) "College board" shall mean the state board for community and  
6 technical colleges created by this chapter.
- 7 (4) "Director" shall mean the administrative director for the state  
8 system of community and technical colleges.
- 9 (5) "District" shall mean any one of the community and technical  
10 college districts created by this chapter.
- 11 (6) "Board of trustees" shall mean the local community and  
12 technical college board of trustees established for each college  
13 district within the state.
- 14 (7) "Occupational education" shall mean that education or training  
15 that will prepare a student for employment that does not require a  
16 baccalaureate degree.
- 17 (8) "K-12 system" shall mean the public school program including  
18 kindergarten through the twelfth grade.
- 19 (9) "Common school board" shall mean a public school district board  
20 of directors.
- 21 (10) "Community college" shall include those higher education  
22 institutions that conduct education programs under RCW 28B.50.020.
- 23 (11) "Technical college" shall include those higher education  
24 institutions with the sole mission of conducting occupational  
25 education, basic skills, literacy programs, and offering on short  
26 notice, when appropriate, programs that meet specific industry needs.  
27 The programs of technical colleges shall include, but not be limited  
28 to, continuous enrollment, competency-based instruction, industry-  
29 experienced faculty, curriculum integrating vocational and basic skills  
30 education, and curriculum approved by representatives of employers and  
31 labor. For purposes of this chapter, technical colleges shall include  
32 Lake Washington Vocational-Technical Institute, Renton Vocational-  
33 Technical Institute, Bates Vocational-Technical Institute, Clover Park  
34 Vocational Institute, and Bellingham Vocational-Technical Institute.
- 35 (12) "Adult education" shall mean all education or instruction,  
36 including academic, vocational education or training, basic skills and  
37 literacy training, and "occupational education" provided by public

1 educational institutions, including common school districts for persons  
2 who are eighteen years of age and over or who hold a high school  
3 diploma or certificate. However, "adult education" shall not include  
4 academic education or instruction for persons under twenty-one years of  
5 age who do not hold a high school degree or diploma and who are  
6 attending a public high school for the sole purpose of obtaining a high  
7 school diploma or certificate, nor shall "adult education" include  
8 education or instruction provided by any four year public institution  
9 of higher education.

10 (13) "Dislocated forest product worker" shall mean a forest  
11 products worker who: (a)(i) Has been terminated or received notice of  
12 termination from employment and is unlikely to return to employment in  
13 the individual's principal occupation or previous industry because of  
14 a diminishing demand for his or her skills in that occupation or  
15 industry; or (ii) is self-employed and has been displaced from his or  
16 her business because of the diminishing demand for the (~~business's~~)  
17 business services or goods; and (b) at the time of last separation  
18 from employment, resided in or was employed in a rural natural  
19 resources impact area.

20 (14) "Forest products worker" shall mean a worker in the forest  
21 products industries affected by the reduction of forest fiber  
22 enhancement, transportation, or production. The workers included  
23 within this definition shall be determined by the employment security  
24 department, but shall include workers employed in the industries  
25 assigned the major group standard industrial classification codes "24"  
26 and "26" and the industries involved in the harvesting and management  
27 of logs, transportation of logs and wood products, processing of wood  
28 products, and the manufacturing and distribution of wood processing and  
29 logging equipment. The commissioner may adopt rules further  
30 interpreting these definitions. For the purposes of this subsection,  
31 "standard industrial classification code" means the code identified in  
32 RCW 50.29.025(~~(+6)(e)~~) (3).

33 (15) "Dislocated salmon fishing worker" means a finfish products  
34 worker who: (a)(i) Has been terminated or received notice of  
35 termination from employment and is unlikely to return to employment in  
36 the individual's principal occupation or previous industry because of  
37 a diminishing demand for his or her skills in that occupation or

1 industry; or (ii) is self-employed and has been displaced from his or  
2 her business because of the diminishing demand for the business's  
3 services or goods; and (b) at the time of last separation from  
4 employment, resided in or was employed in a rural natural resources  
5 impact area.

6 (16) "Salmon fishing worker" means a worker in the finfish industry  
7 affected by 1994 or future salmon disasters. The workers included  
8 within this definition shall be determined by the employment security  
9 department, but shall include workers employed in the industries  
10 involved in the commercial and recreational harvesting of finfish  
11 including buying and processing finfish. The commissioner may adopt  
12 rules further interpreting these definitions.

13 (17) "Rural natural resources impact area" means:

14 (a) A nonmetropolitan county, as defined by the 1990 decennial  
15 census, that meets three of the five criteria set forth in subsection  
16 (18) of this section;

17 (b) A nonmetropolitan county with a population of less than forty  
18 thousand in the 1990 decennial census, that meets two of the five  
19 criteria as set forth in subsection (18) of this section; or

20 (c) A nonurbanized area, as defined by the 1990 decennial census,  
21 that is located in a metropolitan county that meets three of the five  
22 criteria set forth in subsection (18) of this section.

23 (18) For the purposes of designating rural natural resources impact  
24 areas, the following criteria shall be considered:

25 (a) A lumber and wood products employment location quotient at or  
26 above the state average;

27 (b) A commercial salmon fishing employment location quotient at or  
28 above the state average;

29 (c) Projected or actual direct lumber and wood products job losses  
30 of one hundred positions or more;

31 (d) Projected or actual direct commercial salmon fishing job losses  
32 of one hundred positions or more; and

33 (e) An unemployment rate twenty percent or more above the state  
34 average. The counties that meet these criteria shall be determined by  
35 the employment security department for the most recent year for which  
36 data is available. For the purposes of administration of programs  
37 under this chapter, the United States post office five-digit zip code

1 delivery areas will be used to determine residence status for  
2 eligibility purposes. For the purpose of this definition, a zip code  
3 delivery area of which any part is ten miles or more from an urbanized  
4 area is considered nonurbanized. A zip code totally surrounded by zip  
5 codes qualifying as nonurbanized under this definition is also  
6 considered nonurbanized. The office of financial management shall make  
7 available a zip code listing of the areas to all agencies and  
8 organizations providing services under this chapter.

9 NEW SECTION. **Sec. 35.** The commissioner of the employment security  
10 department may adopt such rules as are necessary to implement this act.

11 NEW SECTION. **Sec. 36.** The following acts or parts of acts are  
12 each repealed:

13 (1) RCW 50.20.015 (Person with marginal labor force attachment) and  
14 1986 c 106 s 1, 1985 c 285 s 3, & 1984 c 205 s 9;

15 (2) RCW 50.20.045 (Employee separated from employment due to wage  
16 garnishment not disqualified) and 1969 ex.s. c 264 s 35;

17 (3) RCW 50.20.125 (Maximum amount payable weekly) and 2002 c 149 s  
18 3; and

19 (4) RCW 50.29.045 (Contribution rate--Insolvency surcharge) and  
20 2002 c 149 s 9.

21 NEW SECTION. **Sec. 37.** If any part of this act is found to be in  
22 conflict with federal requirements that are a prescribed condition to  
23 the allocation of federal funds to the state or the eligibility of  
24 employers in this state for federal unemployment tax credits, the  
25 conflicting part of this act is inoperative solely to the extent of the  
26 conflict, and the finding or determination does not affect the  
27 operation of the remainder of this act. Rules adopted under this act  
28 must meet federal requirements that are a necessary condition to the  
29 receipt of federal funds by the state or the granting of federal  
30 unemployment tax credits to employers in this state.

31 NEW SECTION. **Sec. 38.** If any provision of this act or its  
32 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 39.** Section 30 of this act expires January 1,  
4 2004.

5 NEW SECTION. **Sec. 40.** This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and takes effect  
8 immediately."

**SB 6097 - S AMD 471**  
By Senator Honeyford

**ADOPTED AS AMENDED 06/10/2003**

9 On page 1, line 3 of the title, after "rates;" strike the remainder  
10 of the title and insert "amending RCW 50.01.010, 50.20.010, 50.20.050,  
11 50.04.293, 50.20.060, 50.20.065, 50.20.240, 50.20.120, 50.20.100,  
12 50.29.025, 50.04.355, 50.29.026, 50.29.062, 50.29.070, 50.12.220,  
13 50.16.010, 50.16.015, 50.24.014, 50.20.190, 50.04.206, 50.20.140,  
14 50.20.043, 50.20.160, 50.32.040, and 28B.50.030; reenacting and  
15 amending RCW 50.29.020; adding new sections to chapter 50.04 RCW;  
16 adding new sections to chapter 50.20 RCW; adding new sections to  
17 chapter 50.29 RCW; creating new sections; repealing RCW 50.20.015,  
18 50.20.045, 50.20.125, and 50.29.045; providing an expiration date; and  
19 declaring an emergency."

--- END ---